## INDEX TO VOLUME I.


| | Page |
|---|---|
| Certification of Record by Secretary of Federal Trade Commission, | 2 |
| Resolution Authorizing Original Complaint, Dated July 5, 1917 ... | 3 |
| Original Complaint, Dated July 5, 1917 ..... | 4 |
| Commission's Order (Dated July 31, 1917) Extending Time for Filing Answer ..... | 8 |
| Original Answer of Respondent, with Exhibits, Filed August 9, 1917, | 9 |
| Exhibit A—District Agency Agreement—Form JDA3-a ..... | 15 |
| Exhibit B—Bill of Complaint of Pictorial Review Company ... | 24 |
| Exhibit C—Answer of Curtis Publishing Company ..... | 35 |
| Exhibit D—Opinion of Augustus N. Hand, D. J., Denying Motion for Temporary Injunction ..... | 39 |
| Stipulation (Dated August 23, 1917) with Reference to Time and Place of Hearing ..... | 46 |
| Orders Appointing Examiner and Designating Time and Place of Hearing, Both Dated November 27, 1917 .....47-48 | |
| Resolution (Dated February 27, 1918) Fixing Time for Hearing Motion of Counsel for Commission to Strike Certain Portions from Respondent's Answer ..... | 49 |
| Notice (Dated March 1, 1918) to Counsel for Respondent, of Motion of Counsel for Commission to Strike Certain Portions from Answer of Respondent ..... | 51 |
| Order (Dated March 12, 1918) Granting Motion to Strike Out Certain Portions of Answer of Respondent ..... | 54 |
| Amended Resolution, Dated April 8, 1918 ..... | 58 |
| Amended Complaint, Dated April 8, 1918 ..... | 59 |
| Amended Answer of Respondent, with Exhibits, Filed May 10, 1919, | 63 |
| Exhibit A—District Agency Agreement—Form JDA3-a ..... | 68 |
| Exhibit B—District Agency Agreement—Form JDA8 ..... | 76 |
| Notice (Dated January 6, 1919) That Commission Will Entertain Briefs and Argument on Certain Points Raised by the Pleadings and Evidence in This Case, on January 29, 1919 .. | 88 |
| Commission's Report, Containing Findings as to the Facts and Conclusions, Dated July 21, 1919 ..... | 90 |
| Commission's Order to Cease and Desist, Dated July 21, 1919 ..... | 94 |
| Testimony and Exhibits ..... | 96 |

| Witnesses: | Direct Exam. Page | Cross-Exam. Page | Re-Dir. Exam. Page | Re-Cr.-Exam. Page | Re-Re-Dir. Exam. Page | Re-Re-Cross-Exam. Page |
|---|---|---|---|---|---|---|
| Thomas H. Beck | 101 | 112 | | | | |
| Ernest A. Scholz | 135 | 140 | 143 | | | |
| Harry L. Welker | 144 | 154 | 165 | 171 | | |
| B. A. Mackinnon | 174 | | | | | |
| B. A. Mackinnon (Recalled), | 227 | 250 | | | | |
| John C. Ramroth | 285 | 293 | | | | |
| William O'Reilly | 301 | 308 | | | | |
| Samuel Racheles | 309 | | | | | |
| Thomas H. Beck (Recalled), | | 313 | | | | |
| Harry A. Braelow | 315 | 323 | 324 | 325 | | |
| William G. Suttle | 325 | 329 | | | | |
| Robert J. Callahan | 331 | 342 | | | | |
| Edward Riley Snyder | 344 | 349 | 350 | 351 | | |
| A. M. Pierson | 352 | 364 | | | | |
| Max Okin | 365 | 367 | 369 | | | |
| B. A. Mackinnon (Recalled), | | 373 | 408 | 425 | | |
| Charles H. Smith | 426 | 451 | 455 | | | |
| Harry Mishara | 457 | 470 | 473 | 474 | | |
| Max Silverstein | 475 | 485 | 487 | 491 | | |
| Roy M. Woodstock | 494 | 508 | | | | |
| L. O. West | 513 | 520 | 525 | | | |
| Chester A. Goldsmith | 525 | 535 | | | | |
| David W. Boland | 539 | 549 | 551 | 553 | | |
| Philip Henry Carroll | 554 | 563 | 566 | | | |
| Max L. Katze | 568 | 577 | 579 | | | |
| L. H. Cooper | 579 | 586 | 587 | 587 | | |
| Myer J. Reiser | 588 | 593 | 598 | 600 | | |
| George Ernest Martin | 601 | 609 | 612 | | | |
| Moses H. Schlafman | 614 | 623 | 624 | | | |
| F. C. Seguin | 625 | 632 | 634 | | | |
| " " " (Recalled) | 645 | | | | | |
| Herman P. Koppleman | 635 | 637 | | | | |
| " " " (Rec'd), | 657 | | | | | |
| Edward P. Hunt | 646 | 653 | 655 | | | |
| James W. Heffernan | 661 | 671 | 672 | | | |
| R. E. Gerth | 673 | 678 | 679 | 680 | | |
| James S. Smith | 681 | 689 | 689 | | | |
| Martin Korb | 690 | | | | | |
| Edward P. Hunt | 690 | 691 | | | | |
| Jerome B. Shively | 693 | 704 | 709 | | | |
| William H. Peers | 711 | 725 | 730 | | | |
| J. L. Price | 732 | 737 | 740 | | | |
| J. W. Burnton | 740 | 743 | 744 | 745 | 745 | |
| Frank Kleinschmidt | 746 | 756 | 761 | 762 | | |

| Witnesses: | Direct Exam. Page | Cross-Exam. Page | Re-Dir. Exam. Page | Re-Cr.-Exam. Page | Re-Re-Dir. Exam. Page | Re-Re-Cross-Exam. Page |
|---|---|---|---|---|---|---|
| John Monroe | 763 | 768 | 773 | 773 | | |
| Louis R. Kilpatrick | 774 | 797 | 809 | | | |
| Charles Levy | 809 | 823 | | | | |
| Elwood C. Fischer | 824 | 838 | 842 | | | |
| George E. Seidler | 842 | 851 | | | | |
| W. T. McFadden | 854 | 867 | 873 | 874 | 876 | 877 |
| Thomas H. Kennell | 877 | 890 | | | | |


## EXHIBITS.


| | Page |
|---|---|
| Commission's Exhibit A | 193 |
| " " B | 202 |
| " " C | 207 |
| " " D (Not Printed). | |
| " " E | 208 |
| " " F | 209 |
| " " G | 210 |
| " " H | 211 |
| " " I | 211 |
| " " J | 213 |
| " " K (Not Printed). | |
| " " L | 214 |
| " " M | 215 |
| " " N | 217 |
| " " O | 217 |
| " " P | 218 |
| " " Q | 219 |
| " " R | 220 |
| " " S | 221 |
| " " T | 224 |
| " " U | 225 |
| " " V | 227 |
| " " W (Not Printed). | |
| " " X | 247 |
| " " Y | 247 |
| Commission's Exhibit No. 1 | 280 |
| " " " 2 | 281 |
| " " " 3 | 282 |
| " " " 4 | 283 |
| " " " 5 | 284 |
| " " " 6 | 286 |
| " " " 7 | 288 |

| | | | | Page |
|---|---|---|---|---|
| Commissions | Exhibit | No. | 8 | 306 |
| " | " | " | 9 | 305 |
| " | " | " | 10 | 307 |
| " | " | " | 11 | 317 |
| " | " | " | 12 | 334 |
| " | " | " | 13 | 335 |
| " | " | " | 14 | 336 |
| " | " | " | 15 | 335 |
| " | " | " | 16 | 337 |
| " | " | " | 17 | 340 |
| " | " | " | 18 | 356 |
| " | " | " | 19 | 357 |
| " | " | " | 20 | 357 |
| " | " | " | 21 | 358 |
| " | " | " | 22 (Not Printed). | |
| " | " | " | 23 | 359 |
| " | " | " | 24 | 360 |
| " | " | " | 25 | 434 |
| " | " | " | 26 | 434 |
| " | " | " | 27 | 435 |
| " | " | " | 28 | 436 |
| " | " | " | 29 | 437 |
| " | " | " | 30 | 437 |
| " | " | " | 31 | 438 |
| " | " | " | 32 | 439 |
| " | " | " | 33 | 440 |
| " | " | " | 34 | 440 |
| " | " | " | 35 | 443 |
| " | " | " | 36 | 444 |
| " | " | " | 37 | 445 |
| " | " | " | 38 | 458 |
| " | " | " | 39 | 469 |
| " | " | " | 40 | 479 |
| " | " | " | 41 | 481 |
| " | " | " | 42 | 482 |
| " | " | " | 43 | 483 |
| " | " | " | 44 | 488 |
| " | " | " | 45 | 497 |
| " | " | " | 46 | 498 |
| " | " | " | 47 | 499 |
| " | " | " | 48 | 500 |
| " | " | " | 49 | 501 |
| " | " | " | 50 | 503 |
| " | " | " | 51 | 504 |
| " | " | " | 52 | 507 |
| " | " | " | 53 | 516 |

| | | | | Page |
|---|---|---|---|---|
| Commissions | Exhibit | No. | 54 | 517 |
| " | " | " | 54 | 617 |
| " | " | " | 55 | 528 |
| " | " | " | 55 | 620 |
| " | " | " | 56 | 530 |
| " | " | " | 56 | 648 |
| " | " | " | 57 | 532 |
| " | " | " | 57 | 657 |
| " | " | " | 58 | 533 |
| " | " | " | 58 | 664 |
| " | " | " | 59 | 543 |
| " | " | " | 59 | 665 |
| " | " | " | 60 | 544 |
| " | " | " | 60 | 675 |
| " | " | " | 61 | 582 |
| " | " | " | 61 | 686 |
| " | " | " | 62 | 582 |
| " | " | " | 62 | 697 |
| " | " | " | 63 | 699 |
| " | " | " | 64 | 714 |
| " | " | " | 65 | 716 |
| " | " | " | 66 | 718 |
| " | " | " | 67 | 720 |
| " | " | " | 68 | 750 |
| " | " | " | 69 | 751 |
| " | " | " | 70 | 765 |
| " | " | " | 71 | 772 |
| " | " | " | 72 | 778 |
| " | " | " | 73 | 781 |
| " | " | " | 74 | 783 |
| " | " | " | 75 | 784 |
| " | " | " | 76 | 786 |
| " | " | " | 77 | 788 |
| " | " | " | 78 | 812 |
| " | " | " | 79 | 813 |
| " | " | " | 80 | 814 |
| " | " | " | 81 | 814 |
| " | " | " | 82 | 818 |
| " | " | " | 83 | 819 |
| " | " | " | 84 | 822 |
| " | " | " | 85 | 829 |
| " | " | " | 86 | 830 |
| " | " | " | 87 | 833 |
| " | " | " | 88 | 834 |
| " | " | " | 89 | 837 |
| " | " | " | 90 | 881 |

| | | | | Page |
|---|---|---|---|---|
| Commissions | Exhibit | No. | 91 | 883 |
| " | " | " | 92 | 883 |
| " | " | " | 93 | 886 |
| " | " | " | 94 | 887 |
| " | " | " | 95 | 889 |
| Respondent's | Exhibit | No. | 1 | 294 |
| " | " | " | 1 | 890 |
| " | " | " | 2 | 399 |
| " | " | " | 3 | |
| " | " | " | 4 | 388 |
| " | " | " | 5 | 389 |
| " | " | " | 6 | 390 |
| " | " | " | 7 | 392 |
| " | " | " | 8 | 393 |
| " | " | " | 9 | 396 |
| " | " | " | 10 | 401 |
| " | " | " | 11 | 403 |
| " | " | " | 12 | 404 |
| " | " | " | 13 | |
| " | " | " | 14 | 509 |
| " | " | " | 15 | 595 |

## INDEX TO VOLUME II.


| Witnesses: | Direct Exam. Page | Cross-Exam. Page | Re-Dir. Exam. Page | Re-Cr.-Exam. Page | Re-Re-Dir. Exam. Page | Re-Re-Cross-Exam. Page |
|---|---|---|---|---|---|---|
| Harry H. Jefferson | 897 | 911 | | | | |
| Richard E. Gardner | 933 | 946 | 949 | | | |
| Max Annenberg | 949 | 956 | 966 | 973 | 974 | 974 |
| Louis H. Rose | 976 | 984 | | | | |
| Ralph A. Daines | 988 | 997 | 998 | 999 | | |
| Herman Re | 999 | 1010 | 1011 | | | |
| Harvey Stofflet | 1012 | 1024 | 1028 | 1029 | 1030 | 1031 |
| John C. Dreher | 1032 | 1050 | 1053 | | | |
| Charles C. Hall | 1054 | 1072 | 1075 | 1075 | 1076 | 1076 |
| Max Solomon | 1077 | 1100 | 1104 | 1109 | 1110 | 1110 |
| John O'Donnell | 1111 | 1117 | 1117 | 1118 | | |
| Tad M. Shaw | 1118 | 1131 | | | | |
| Scott Krauss | 1132 | 1151 | 1154 | 1155 | 1156 | |
| Harry R. DeWolf | 1158 | 1178 | 1180 | | | |
| Henry Solomon | 1181 | 1205 | 1211 | 1212 | 1212 | 1212 |
| Fred R. Hunt | 1213 | 1229 | 1230 | 1231 | 1231 | |
| Lester Deweese | 1231 | 1248 | 1249 | | | |
| Proceedings | 1250 | | | | | |
| B. A. Mackinnon (Recalled), | | 1260 | | | | |
| M. E. Douglas | 1293 | 1309 | 1313 | 1314 | | |


### RESPONDENT'S TESTIMONY.


| Witnesses: | Direct Exam. Page | Cross-Exam. Page | Re-Dir. Exam. Page | Re-Cr.-Exam. Page | Re-Re-Dir. Exam. Page | Re-Re-Cross-Exam. Page |
|---|---|---|---|---|---|---|
| M. E. Douglas | 1316 | 1418 | 1548 | 1560 | 1567 | |
| Norman K. McInnis | 1522 | | | | | |
| William G. Duff | 1525 | 1531 | 1542 | 1545 | | |
| R. W. Weand | 1570 | 1574 | 1588 | | | |
| Grant Castner | 1589 | 1594 | 1598 | 1598 | | |
| Isaac B. Lazarus | 1601 | 1607 | 1618 | | | |
| Mrs. A. Y. Lane | 1618 | 1623 | | | | |
| Jerome J. Vandewater | 1624 | 1627 | | | | |
| Clarence A. Schnee | 1632 | 1635 | | | | |
| Arthur Anderton | 1639 | 1641 | | | | |
| Clarence E. Turner | 1645 | 1648 | 1651 | 1651 | | |
| Patrick J. Kelly | 1651 | 1659 | 1677 | | | |
| Louis E. Clay | 1680 | 1686 | 1719 | 1725 | | |
| J. L. Lynne | 1756 | 1765 | 1800 | 1805 | | |

## INDEX TO EXHIBITS VOLUME II.


| | | Page |
|---|---|---|
| Commission's Exhibit No. | 96 | |
| " " " | 97 | 902 |
| " " " | 98 | 937 |
| " " " | 99 | 938 |
| " " " | 100 | 939 |
| " " " | 101 | 941 |
| " " " | 102 | 941 |
| " " " | 103 | 942 |
| " " " | 104 | 944 |
| " " " | 105 | 992 |
| " " " | 106 | 995 |
| " " " | 107 | 1002 |
| " " " | 108 | 1003 |
| " " " | 109 | 1005 |
| " " " | 110 | 1006 |
| " " " | 111 | 1015 |
| " " " | 112 | 1017 |
| " " " | 113 | 1022 |
| " " " | 114 | 1035 |
| " " " | 115 | 1037 |
| " " " | 116 | 1039 |
| " " " | 117 | 1040 |
| " " " | 118 | 1042 |
| " " " | 119 | 1044 |
| " " " | 120 | 1057 |
| " " " | 121 | 1058 |
| " " " | 122 | 1060 |
| " " " | 123 | 1060 |
| " " " | 124 | 1061 |
| " " " | 125 | 1064 |
| " " " | 126 | 1079 |
| " " " | 127 | 1081 |
| " " " | 128 | 1082 |
| " " " | 129 | 1084 |
| " " " | 130 | 1086 |
| " " " | 131 | 1088 |
| " " " | 132 | 1090 |
| " " " | 133 | 1120 |
| " " " | 134 | 1122 |
| " " " | 135 | 1122 |
| " " " | 136 | 1124 |
| " " " | 137 | 1128 |
| " " " | 138 | 1128 |
| " " " | 139 | 1137 |
| " " " | 140 | 1138 |
| " " " | 141 | 1139 |
| " " " | 142 | 1143 |
| " " " | 143 | 1144 |
| | | 1145 |

## INDEX TO EXHIBITS VOLUME II—Continued.


| | | | Page |
|---|---|---|---|
| Commission's | Exhibit | No. 144 | 1148 |
| " | " | " 145 | 1149 |
| " | " | " 146 | 1150 |
| " | " | " 147 | 1161 |
| " | " | " 148 | 1162 |
| " | " | " 149 | 1164 |
| " | " | " 150 | 1165 |
| " | " | " 151 | 1165 |
| " | " | " 152 | 1168 |
| " | " | " 153 | 1169 |
| " | " | " 154 | 1170 |
| " | " | " 155 | 1171 |
| " | " | " 156 | 1172 |
| " | " | " 157 | 1174 |
| " | " | " 158 | 1178 |
| " | " | " 159 | 1183 |
| " | " | " 160 | 1185 |
| " | " | " 161 | 1186 |
| " | " | " 162 | 1187 |
| " | " | " 163 | 1189 |
| " | " | " 164 | 1190 |
| " | " | " 165 | 1192 |
| " | " | " 166 | 1193 |
| " | " | " 167 | 1196 |
| " | " | " 168 | 1197 |
| " | " | " 169 | 1198 |
| " | " | " 170 | 1199 |
| " | " | " 171 | 1200 |
| " | " | " 172 | 1201 |
| " | " | " 173 | 1216 |
| " | " | " 174 | 1220 |
| " | " | " 175 | 1221 |
| " | " | " 176 | 1223 |
| " | " | " 177 | 1224 |
| " | " | " 178 | 1225 |
| " | " | " 179 | 1234 |
| " | " | " 180 | 1236 |
| " | " | " 181 | 1238 |
| " | " | " 182 | 1238 |
| " | " | " 183 | 1240 |
| " | " | " 184 | 1243 |
| " | " | " 185, 186, 187, 188 (Not Printed). | |
| " | " | " 189 | 1294 |
| " | " | " 190 | 1432 |
| " | " | " 192 | 1433 |
| " | " | " 191 | 1435 |
| " | " | " 193 | 1440 |
| " | " | " 194 | 1494 |

## INDEX TO EXHIBITS VOLUME II—Continued.


| | | | | Page |
|---|---|---|---|---|
| Commission's | Exhibit | No. | 195 | 1504 |
| " | " | " | 196 | 1507 |
| " | " | " | 197 | 1512 |
| Respondent's | Exhibit | No. | 3 | 1285 |
| " | " | " | 1 | 1286 |
| " | " | " | 2 | 1288 |
| " | " | " | 3 | 1289 |
| " | " | " | 4, 5, 6, 7 (Not Printed). | |
| " | " | " | 8 | 1392 |
| " | " | " | 8 and 9 | 1523 |
| " | " | " | 10 | 1556 |
| " | " | " | 11 | 1557 |

## INDEX TO VOLUME III.

### RESPONDENT'S TESTIMONY.


| Witnesses: | Direct Exam. Page | Cross-Exam. Page | Re-Dir. Exam. Page | Re-Cr.-Exam. Page | Re-Re-Dir. Exam. Page | Re-Re-Cross-Exam. Page |
|---|---|---|---|---|---|---|
| H. E. Brumbaugh | 1807 | 1811 | 1820 | | | |
| Edward H. Johnson | 1821 | 1842 | 1870 | 1877 | | |
| Roscoe Peacock | 1879 | 1897 | 1908 | 1911 | | |
| Ernest M. Smith | 1912 | 1917 | 1921 | | | |
| Fred W. Farrar | 1921 | 1925 | 1930 | | | |
| Irving V. Cobleigh | 1930 | 1933 | | | | |
| Maxwell Hopkins | 1936 | 1938 | | | | |
| Charles E. Luther | 1942 | 1946 | 1951 | 1952 | | |
| George Q. Downes, Jr. | 1953 | 1957 | 1960 | 1960 | | |
| Harry Peck | 1961 | 1964 | 1969 | | | |
| Roy M. Woodstock | 1969 | 1973 | | | | |
| Henry P. Crossley | 1978 | 1982 | 1989 | | | |
| Norman A. Chassin | 1991 | 1994 | | | | |
| J. M. Wehner | 1999 | 2002 | 2020 | 2023 | | |
| W. Worthington, Jr. | 2025 | 2027 | 2044 | 2050 | | |
| T. F. Cooke | 2052 | 2054 | 2078 | | | |
| C. S. Crummett | 2082 | 2088 | 2089 | | | |
| Don C. Seitz | 2095 | 2098 | 2099 | | | |
| C. C. Robinson | 2100 | 2104 | 2106 | | | |
| Patrick J. Kelly (recalled) | | 2107 | 2124 | 2127 | 2127 | 2128 |
| R. L. Flanders | 2129 | 2145 | | | | |
| F. W. Baker | 2158 | 2160 | 2176 | 2179 | 2179 | |
| John H. Murphy | 2185 | 2188 | 2190 | | | |
| John L. Thomas | 2190 | 2194 | 2202 | 2203 | | |
| William Smith | 2203 | 2208 | 2215 | | | |
| Walter Lawrence Harris | 2215 | 2216 | | | | |
| William Smith (recalled) | | 2217 | | | | |
| L. H. Kimbrough | 2219 | 2222 | | | | |
| Raymond B. Pearce | 2223 | 2224 | | | | |
| C. B. Guttridge | 2225 | 2227 | | | | |
| Fred H. Baker | 2228 | 2232 | 2234 | 2234 | | |
| W. T. Forrester | 2235 | 2238 | 2245 | | | |
| B. L. Sronce | 2246 | 2248 | | | | |
| Charles F. Kramer | 2249 | 2251 | | | | |
| L. F. Dyson | 2253 | 2255 | 2257 | 2257 | | |
| Roscoe Peacock (recalled) | 2257 | 2261 | 2262 | | | |
| E. W. Guthrie | 2263 | 2266 | 2294 | 2295 | | |
| John W. Weiler | 2300 | 2303 | 2323 | | | |
| W. D. Bankston | 2323 | 2325 | 2338 | | | |
| E. M. Loveland | 2338 | 2339 | | | | |
| Olin B. Linn | 2344 | 2348 | 2351 | | | |
| E. L. Scott | 2351 | 2354 | 2361 | | | |

| Witnesses: | Direct Exam. Page | Cross-Exam. Page | Re-Dir. Exam. Page | Re-Cr.-Exam. Page | Re-Re-Dir. Exam. Page | Re-Re-Cross Exam. Page |
|---|---|---|---|---|---|---|
| James T. Ballard | 2361 | 2363 | 2364 | | | |
| James H. Nelson | 2364 | 2366 | 2368 | | | |
| J. L. Tenenbaum | 2370 | 2372 | 2376 | | | |
| Baldwin Allen | 2377 | 2378 | 2379 | | | |
| Murphy M. Williams | 2380 | 2381 | 2381 | | | |
| George E. Reeves | 2382 | 2383 | | | | |
| Shaw Johnson | 2385 | 2386 | 2387 | | | |
| E. M. Connor, Jr. | 2387 | 2390 | 2392 | 2393 | | |
| C. R. Reagan | 2394 | 2395 | | | | |
| Charles Lonsberg | 2397 | 2400 | 2402 | | | |
| Charles J. Rossy | 2403 | 2406 | 2409 | | | |
| F. H. Duncan | 2410 | 2413 | 2420 | 2421 | | |
| James A. Mathews | 2421 | 2426 | 2429 | 2431 | | |
| Harold Hough | 2434 | 2435 | | | | |
| Clint McDade | 2438 | 2441 | | | | |
| R. A. Dunlap | 2448 | 2450 | 2467 | | | |
| F. J. Stuart | 2468 | 2470 | 2478 | | | |
| L. G. Griffis | 2478 | 2480 | 2504 | | | |
| B. M. Awalt | 2488 | 2490 | | | | |
| John H. Greene | 2494 | 2495 | 2502 | | | |
| J. T. Toler | 2507 | 2512 | | | | |
| P. E. Schmalz | 2513 | 2514 | 2516 | | | |
| J. T. Toler (recalled) | | 2517 | | | | |
| Ferdinand J. Syvertson | 2519 | 2525 | 2530 | | | |
| Edgar P. Treloar | 2532 | 2535 | 2538 | | | |
| A. M. Beresford | 2538 | 2540 | 2541 | | | |
| R. P. Flanders | 2545 | 2548 | 2554 | 2555 | | |
| William E. McNerney | 2557 | 2559 | 2562 | | | |
| M. J. Brennan | 2562 | 2569 | 2578 | 2578 | | |
| A. C. Simons | 2578 | 2580 | 2582 | | | |
| Henry C. Sieghold | 2582 | 2586 | 2592 | 2593 | | |
| Miss Margaret Goodrich | 2594 | 2599 | 2603 | | | |
| Theodora Moorehead | 2604 | 2606 | | | | |
| Eric Nelson | 2608 | 2625 | 2636 | 2637 | | |
| Francis O'Conner | 2639 | 2641 | 2644 | 2645 | | |
| C. T. Sheldon | 2646 | 2647 | 2648 | | | |

## INDEX TO EXHIBITS VOLUME III.


| | | Page |
|---|---|---|
| Respondent's Exhibit No. | 12 | 1828 |
| " " " | 13 | 2183 |
| " " " | 14 | 2183 |
| " " " | 15 | 2183 |
| " " " | 16 | 2184 |
| " " " | 17 | 2184 |
| " " " | 18 | 2197 |
| " " " | 19 | 2206 |
| " " " | 20 | 2239 |
| " " " | 21 | 2241 |
| " " " | 22 | 2241 |
| " " " | 23 | 2243 |
| " " " | 24 | 2244 |
| " " " | 25 | 2256 |
| " " " | 26 | 2259 |
| " " " | 27, 28, 29 (Not Printed). | |
| " " " | 30 | 2565 |
| " " " | 31 | 2612 |
| " " " | 32 | 2622 |
| " " " | 33 | 2624 |
| Commission's Exhibit No. | 198 | 2093 |
| " " " | 199a, 199b and 199c | 2357 |
| " " " | 199 | 2482 |
| " " " | 200 | 2497 |

## INDEX TO VOLUME IV.


| | Direct Exam. Page | Cross-Exam. Page | Re-Dir. Exam. Page | Re-Cr.-Exam. Page | Re-Re-Dir. Exam. Page | Re-Re-Cross-Exam. Page |
|---|---|---|---|---|---|---|
| James C. Jackson | 2649 | 2651 | 2653 | | | |
| Gordon B. Bell | 2654 | 2655 | 2655 | | | |
| H. W. Parish | 2655 | 2657 | | | | |
| Presley Mallory | 2660 | 2662 | 2665 | 2667 | | |
| C. M. Turner | 2668 | 2670 | 2680 | 2691 | | |
| Hartly Green | 2693 | 2695 | 2720 | 2725 | | |
| H. W. Marks | 2728 | | | | | |
| George H. Lewis | 2730 | 2732 | 2738 | 2739 | 2744 | |
| Osborne Adamson | 2745 | 2748 | 2761 | | | |
| H. W. Marks (Recalled) | 2762 | | | | | |
| R. C. McLarty | 2771 | 2773 | | | | |
| Carl Otto Neese | 2775 | 2778 | 2783 | | | |
| W. R. Young | 2784 | 2786 | 2797 | 2799 | | |
| F. M. Bay | 2800 | 2802 | 2808 | | | |
| F. L. Coad | 2809 | 2813 | 2813 | | | |
| S. A. Christenson | 2814 | 2818 | 2820 | 2821 | | |
| George Shubert | 2823 | 2826 | | | | |
| Robert Wells | 2827 | 2829 | | | | |
| Thomas Dewey | 2831 | 2835 | 2838 | | | |
| Alexander McLean | 2839 | 2849 | 2860 | 2861 | 2863 | |
| Mrs. I. B. Sturdevant | 2863 | 2872 | 2879 | | | |
| Cyrus Benedict | 2881 | 2884 | 2885 | 2886 | | |
| Louis Ehrhard | 2886 | | | | | |
| L. A. Nelson | 2888 | 2890 | 2901 | 2909 | | |
| Mrs. G. Whittlesey | 2911 | 2914 | | | | |
| Jacob Baron | 2917 | 2925 | 2941 | 2943 | 2946 | 2946 |
| C. Ray Bawden | 2949 | 2951 | 2953 | 2954 | | |
| G. H. Sagerman | 2955 | 2958 | | | | |
| A. B. Catterfeld | 2961 | 2966 | | | | |
| Royal Johnson | 2969 | 2973 | | | | |
| T. J. Hyde | 2973 | 2977 | | | | |
| W. C. Geleng | 2978 | | | | | |
| W. L. Earnshaw | 2980 | 2982 | 2990 | | | |
| M. D. Reynolds | 2991 | 2992 | 3004 | 3009 | | |
| W. L. Earnshaw (Recalled) | | 3017 | 3019 | | | |
| C. M. Gott | 3026 | 3028 | 3049 | | | |
| H. L. Young | 3051 | 3054 | 3067 | | | |
| C. E. Boyce | 3072 | 3079 | 3090 | 3093 | | |
| J. F. O'Neil | 3093 | 3095 | 3102 | 3105 | | |
| H. H. Nutter | 3106 | 3108 | 3125 | 3127 | | |

## INDEX TO VOLUME IV—Continued.


| Witnesses: | Direct Exam. Page | Cross-Exam. Page | Re-Dir. Exam. Page | Re-Cr.-Exam. Page | Re-Re-Dir. Exam. Page | Re-Re-Cross-Exam. Page |
|---|---|---|---|---|---|---|
| Edgar B. Kernan | 3127 | 3129 | 3136 | | | |
| A. J. Holl | 3136 | 3139 | | | | |
| H. B. Smith | 3142 | 3144 | | | | |
| John W. Rhodes | 3145 | 3146 | | | | |
| A. R. Otis | 3146 | 3149 | | | | |
| F. F. Hamilton | 3150 | 3154 | 3155 | 3156 | | |
| Israel Goodman | 3157 | 3163 | 3170 | 3171 | | |
| Horace F. Campbell | 3171 | 3174 | | | | |
| Charles Franklin Johnson | 3175 | 3178 | 3179 | | | |
| Carl H. Reister | 3179 | 3182 | 3183 | 3184 | | |
| Frank M. Heck | 3184 | 3185 | 3187 | 3188 | 3189 | 3190 |
| Carl S. Snook | 3190 | 3191 | 3191 | 3192 | | |
| B. F. Lane | 3192 | 3194 | | | | |
| Walter H. Norris | 3194 | 3195 | | | | |
| Clyde Alvis | 3197 | 3201 | | | | |
| W. S. Carter | 3204 | 3205 | | | | |
| W. A. Stoute | 3206 | 3208 | | | | |
| M. E. Douglas (Recalled) | 3210 | 3247 | | | | |
| Charles H. Smith (Recalled), | 3313 | 3323 | 3324 | | | |


## REBUTTAL TESTIMONY.


| | | | | |
|---|---|---|---|---|
| Martin Korb | 3326 | 3329 | 3342 | |
| Robert J. Cuddihy | 3342 | 3347 | 3351 | 3353 |
| Harold Sanborn | 3354 | 3380 | | |
| B. A. McKinnon (Recalled), | 3398 | 3400 | | |
| Osborne Adamson (Recalled), | 3404 | 3405 | 3406 | |
| H. B. Smith (Recalled) | 3406 | 3408 | 3408 | |
| M. E. Douglas (Recalled) | 3412 | 3414 | | |
| Harold Sanborn (Recalled) | 3416 | 3429 | | |

| | Page |
|---|---|
| Certificate of Secretary | 3433 |
| Statement of M. E. Douglas | 3434 |
| List of District Agents | 3438 |
| Statement of William Boyd | 3442 |

## INDEX TO EXHIBITS VOLUME IV.


| | | Page |
|---|---|---|
| Commission's Exhibit No. 201 | | 2701 |
| " " " 202 | | 2702 |
| " " " 203 | | 2708 |
| " " " 204 | | 2713 |
| " " " 205 | | 2715 |
| " " " 206 | | 2751 |
| " " " 207 | | 2807 |
| " " " 208 | | 2928 |
| " " " 209 | | 2932 |
| " " " 210 | | 2933 |
| " " " 211 | | 2937 |
| " " " 212 | | 3135 |
| " " " 213 | | 3174 |
| " " " 214 | | 3251 |
| " " " 215 | | 3253 |
| " " " 216 | | 3277 |
| " " " 217 | | 3281 |
| " " " 218 | | 3320 |
| " " " 219 | | 3321 |
| " " " 220 | | 3322 |
| " " " 221 | | 3417 |
| " " " 222 | | 3420 |
| " " " 223 | | 3423 |
| " " " 224 | | 3424 |
| " " " 225 | | 3425 |
| " " " 226 | | 3427 |
| Respondent's Exhibit No. 32 | | 2763 |
| " " " 34 | | 3075 |
| " " " 35 | | 3229 |
| " " " 36 | | 3231 |
| " " " 38 | | 3235 |
| " " " 39 | | 3236 |
| " " " 40 | | 3238 |
| " " " 41 | | 3240 |
| " " " 42 | | 3241 |
| " " " 43 | | 3243 |
| " " " 44 | | 3244 |
| " " " 45 | | 3246 |
| " " " 47 | | 3325 |
| " " " 48 | | 3386 |
| " " " 49 | | 3390 |

## INDEX TO EXHIBIT BOOK VOLUME V.


| | | | | Page |
|---|---|---|---|---|
| Respondent's | Exhibit | No. | 1 | 1 |
| " | " | " | 2 | 11 |
| " | " | " | 3 | 33 |
| " | " | " | 4 | 51 |
| " | " | " | 5 | 95 |
| " | " | " | 6 | 101 |
| " | " | " | 7 | 107 |
| " | " | " | 12 | 233 |
| " | " | " | 13 | 237 |
| " | " | " | 13a | 241 |
| " | " | " | 46 | 245 |
| Commission's | Exhibit | No. | 227 | 249 |
| " | " | " | 228 | 253 |

# UNITED STATES OF AMERICA.

Before

FEDERAL TRADE COMMISSION.

Docket No. 15.

FEDERAL TRADE COMMISSION

v.

CURTIS PUBLISHING COMPANY,

Respondent.

Transcript of the proceedings before the Federal Trade Commission—certified to the United States Circuit Court of Appeals for the Third Circuit, in accordance with the provisions of Section 5 of the Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and of Section 11 of "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914—as a result of the petition filed in said Court on September 26, 1919, by the Attorneys for the Curtis Publishing Company, for a review of the Order to Cease and Desist entered by the Federal Trade Commission against said Curtis Publishing Company under date of July 21, 1919.

UNITED STATES OF AMERICA,
BEFORE FEDERAL TRADE COMMISSION, } *ss.:*

*Federal Trade Commission*
v.
*The Curtis Publishing Company.* } Docket No. 15.

I, J. P. Yoder, Secretary of the Federal Trade Commission, certify that the following is a full, true and correct transcript of the record in the above entitled proceeding, including the pleadings, testimony, exhibits, stipulation, notices, the Commission's report, findings as to the facts and conclusions, and orders therein; that this transcript is transmitted to the United States Circuit Court of Appeals for the Third Circuit pursuant to service upon the Commission of a copy of a Petition for Review by Prichard, Saul, Bayard & Evans, Attorneys for the above-named respondent, on the 27th day of September, 1919.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of the Federal Trade Commission, at the City of Washington, in the District of Columbia, the 18th day of November, A. D., 1919.

J. P. YODER,
*Secretary.*

(Seal)

## RESOLUTION AUTHORIZING ORIGINAL COMPLAINT—DATED JULY 5, 1917.

UNITED STATES OF AMERICA,
BEFORE FEDERAL TRADE COMMISSION, } *ss.:*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 5th day of July, A. D., 1917.

---

Present:

WILLIAM J. HARRIS, *Chairman*,
JOSEPH E. DAVIES,
WILLIAM B. COLVER,
J. FRANKLIN FORT, } *Commissioners.*

---

*Federal Trade Commission*
v.
*The Curtis Publishing Company.* } Docket No. 15.

---

WHEREAS, The Federal Trade Commission has reason to believe that the above-named respondent has violated, and is violating, the provisions of Section 5 of the Federal Trade Commission Act, and Section 3 of the Clayton Act, therefore be it

RESOLVED: That the Commission issue and serve upon said respondent its complaint, stating its charges in that respect in substantially the form hereunto annexed, and be it

FURTHER RESOLVED: That notice be given to said respondent, as required by law, that the charges of said complaint will be heard by the Commission at its offices in the Commerce Building, in the City of Washington, D. C., on the 23d day of August, A. D., 1917, at 10:30 o'clock in the forenoon of said day, or as soon thereafter as the same may be reached.

Adopted by the Commission.

(Signed) LEONIDAS L. BRACKEN,
*Secretary.*

(Seal)

## ORIGINAL COMPLAINT—Dated July 5, 1917

United States of America,
Before Federal Trade Commission, } *ss.:*

At a regular meeting of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 5th day of July, A. D., 1917.

Present:

William J. Harris, *Chairman*,
Joseph E. Davies,
William B. Colver,
J. Franklin Fort,
} *Commissioners.*

*Federal Trade Commission*
v.
*The Curtis Publishing Company.*

Docket No. 15.
Complaint in the matter of the alleged violation of Section 5 of the Act of Congress approved September 26, 1914, and of alleged violation of Section 3 of an Act of Congress approved October 15, 1914.

The Federal Trade Commission having reason to believe, from a preliminary investigation made by it, that The Curtis Publishing Company, hereinafter referred to as respondent, has been, and is, using unfair methods of competition in interstate commerce in violation of Section 5 of the Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and it appearing that a proceeding by it in respect thereof would be to the

interest of the public, issues this complaint, stating its charges in that respect on information and belief as follows:

PARAGRAPH ONE: That the respondent, The Curtis Publishing Company is a corporation organized and existing under and by virtue of the laws of the State of Pennsylvania, having its principal office and place of business in the City of Philadelphia in said State, and is now and was, at all the times hereinafter mentioned, and for many months prior thereto, engaged in the publication, sale and circulation of weekly and monthly periodicals, in commerce among the several States and Territories of the United States and the District of Columbia.

PARAGRAPH TWO: That with the intent, purpose and effect of stifling and suppressing competition in interstate commerce in the publication, sale and circulation of such periodicals, the respondent now refuses, and for several months last past has refused, to sell its periodicals and publications to any dealer who will not agree with the respondent that he will not sell or distribute the periodicals and publications of certain of the competitors of the respondent, to other dealers or distributors.

II.

The Federal Trade Commission having reason to believe, from a preliminary investigation made by it, that The Curtis Publishing Company, hereinafter referred to as respondent, has violated, and is violating, the provisions of Section 3 of the Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," issues this complaint, stating its charges in that respect on information and belief as follows:

PARAGRAPH ONE: That the respondent, The Curtis Publishing Company, is a corporation organized and existing under and by virtue of the laws of the State of Pennsylvania, having its principal office and place of business in the City of Philadelphia, in said State, and is now and was, at all the times hereinafter mentioned, and for many months prior thereto, engaged in the publication, sale and circulation of weekly and monthly periodicals, in commerce among the several States and Territories of the United States and the District of Columbia.

PARAGRAPH TWO: That the respondent, The Curtis Publishing Company, for several months last past, in the course of interstate commerce, has sold and made contracts for sale, and is now selling and making contracts for sale, of large supplies of its publications and periodicals for use and resale within the United States and the Territories thereof and the District of Columbia, and has fixed, and is now fixing, the price charged therefor on the condition, agreement or understanding that the purchasers thereof shall not use or deal in the publications or periodicals of a competitor or competitors of respondent, and that the effect of such sales and contracts for sale, or such conditions, agreements or understandings, may be and is to substantially lessen competition and to tend to create a monopoly.

THEREFORE, NOTICE IS HEREBY GIVEN YOU, the said The Curtis Publishing Company, that the charges of this complaint will be heard by the Federal Trade Commission at its office in the Commerce Building, in the City of Washington, D. C., on the 23rd day of August, A. D. 1917, at 10:30 o'clock in the forenoon of said day, or as soon thereafter as the same may be reached, at which time and place you shall have the

right to appear and show cause why an order should not be entered by the Federal Trade Commission requiring you to cease and desist from the violations of law charged in this complaint.

And you will further take notice that within thirty (30) days after service of this complaint you are required to file with the Commission an answer in conformity with Rule III of the Rules of Practice before the Commission.

In Witness Whereof, The Federal Trade Commission has caused this complaint to be issued, signed by its Secretary, and its official seal to be affixed hereto at the City of Washington, D. C., on this 5th day of July, A. D., 1917.

By the Commission.

(Signed) LEONIDAS L. BRACKEN,
(Seal) *Secretary.*

COMMISSION'S ORDER (DATED JULY 31, 1917), EXTENDING TIME FOR FILING ANSWER.

UNITED STATES OF AMERICA,
BEFORE FEDERAL TRADE COMMISSION, } *ss.:*

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 31st day of July, A. D., 1917.

*Federal Trade Commission*
v.
*The Curtis Publishing Company.*

Docket No. 15.
Order granting respondent an extension of time for filing answer to complaint of the Commission.

ORDER.

IT IS ORDERED, Upon application of Respondent's attorneys, that an extension of time to August 10, 1917, be granted in which to file answer to the complaint of the Commission due August 8, 1917.

By the Commission.

(Signed) L. L. BRACKEN,
*Secretary.*

(Seal)

## ORIGINAL ANSWER OF RESPONDENT—WITH EXHIBITS—FILED AUGUST 9, 1917.

UNITED STATES OF AMERICA,
BEFORE FEDERAL TRADE COMMISSION, } ss.:

*Federal Trade Commission*
v.
*The Curtis Publishing Company.* } Docket No. 15.

The Curtis Publishing Company, the respondent above named, answers the Complaint of the Federal Trade Commission in the matter of an alleged violation of Section 5 of the Act of Congress approved September 26, 1914, and of an alleged violation of Section 3 of the Act of Congress approved October 15, 1914, as follows:

PARAGRAPH ONE: The respondent admits each of the allegations contained in PARAGRAPH ONE of subdivision 1 of the Complaint herein.

PARAGRAPH TWO: The respondent denies each and every allegation contained in PARAGRAPH Two of subdivision 1 of the Complaint herein and alleges that the respondent has for many years past, in addition to the distribution of its said publications through private subscription, distributed its said publications almost exclusively through the medium of an organization, hereinafter in this answer more specifically described, created and maintained by the respondent for the distribution and sale of its said publications, which organization consists of numerous district-agents employed by it in various cities and towns throughout the United States and a large force of boys who are under the supervision and direction of such district-agents, and through which organization it has for many years sold and distributed its various publications to the public, using in addition thereto to a very limited extent, the

services of the American News Company, and that respondent does not and has not for many years past sold its said publications to dealers generally, for sale or distribution by them to others; that in supplying its said district-agents with its various publications for distribution and sale through and by means of said organization, it enters into a contract with said district-agents in the form hereto annexed and marked Exhibit A; and the respondent further alleges that it has given its approval, in some instances, in accordance with the terms of the contract referred to as Exhibit A, of the sale and distribution by such district-agents at wholesale of periodicals and publications other than those of respondent, to dealers or distributors, and that in other instances the respondent's approval has been refused, such refusal by the respondent being based either upon the fact that the said district-agents were not in a position to handle additional business or upon the fact that to approve of such district-agents handling the publications of other persons would place at the disposal of such other persons for the distribution of their publications to the injury of the respondent and its business, the organization of district-agents and boys originated, created and maintained by the respondent at large expense for its own use and benefit. That in entering into said contracts with its said district-agents and in refusing to give its approval, in certain instances, to said district-agents to handle other periodicals and publications it has been and is the purpose and intention of the respondent only to preserve to itself the benefits of the organization created many years ago and maintained by it since at great expense and not in any way to curtail, limit or impair the free sale and distribution of the periodicals and publications of others through other channels; and the respondent further alleges that the other pub-

lishers of periodicals and magazines have and for many years past have had ample and efficient means of distributing and selling their periodicals and publications to and among the retail dealers in the cities and towns of the United States without using or encroaching upon the organization created and maintained by the respondent, and that the retail dealers in magazines and periodicals in the various cities and towns of the United States have ample source of supply of magazines and periodicals and efficient means of obtaining the same other than through the respondent's said organization, and have at all times been able to obtain such magazines and periodicals as they desire to handle, including those of any of the competitors of the respondent, from other sources than through the said organization of the respondent.

II.

PARAGRAPH ONE: The respondent admits each of the allegations contained in PARAGRAPH ONE of subdivision II of the Complaint herein.

PARAGRAPH TWO: The respondent denies each and every allegation contained in PARAGRAPH TWO of subdivision II of the Complaint herein, and respondent alleges that it is the owner and publisher of the periodicals known as "The Saturday Evening Post," "The Ladies Home Journal" and "The Country Gentleman," having acquired the latter periodical in 1911; that prior to the year 1899 the respondent distributed its two first named publications to the public direct by mail to subscribers and also through the agency of the American News Company, a corporation engaged in furnishing various periodicals to the different newsstand dealers throughout the country for sale and distribution by them to the general public. That in the year 1899, for the purpose of providing a more effi-

cient means of distributing its publications, the respondent devised the scheme of selling The Saturday Evening Post direct to the public through the medium of a large number of boys locally employed throughout the country as agents in the distribution of the paper. This scheme was gradually extended to include all of the respondent's said publications and was developed by appointing various district-agents in the cities and towns of the United States for the purpose of supervising, teaching and directing the sales of said publications through and by the boy distributors. The first district-agents were so appointed by the respondent in 1902 and since that time the number has been increased as the necessity therefor required, until at the present time there are 1532 such district-agents employed by the respondent who jointly with the said boy distributors, now numbering 50,000, take care of the distribution and sale of the said publications of the respondent to the public and to the various retail dealers in the various localities assigned to each agent; that this method of distribution as a whole comprises the joint activities of the said district-agents and the boy distributors and depends for its efficiency and operation upon their relationship to each other and to the respondent; that the relationship between the defendant and its said district-agents is covered by the district-agency agreement, a copy of which is annexed hereto and marked Exhibit A; that the relation between the respondent and its said district-agents is and always has been one of agency and the said district-agency agreement is in effect a contract of agency; that said district- agency agreement does not apply to or in any way affect any retail trade of the respondent's said district-agent in the sale and distribution of periodicals and magazines generally which they may desire to handle.

FOR FURTHER ANSWER to the Complaint herein the respondent alleges as follows:

That the Complaint herein was issued as the result of an application to the Federal Trade Commission by The Pictorial Review Company, a corporation organized and existing under and by virtue of the laws of the State of New York, having its principal office and place of business in the City of New York, and which is now and has been for some time past engaged in the publication, sale and circulation of a periodical known as the "Pictorial Review."

That the respondent, early in April, 1917, was informed by The Federal Trade Commission that complaint had been made by The Pictorial Review Company with respect to its said contract with its district-agents hereinbefore in this answer referred to, and that on April 10th and April 30th and May 15th, 1917, the respondent appeared before this Commission and explained its method of carrying on its said business under its said district-agency agreement and through its said organization of district-agents and boy distributors.

That thereafter, and while the said matter was still pending and was receiving the consideration of this Commission and before the issuing of the Complaint herein, The Pictorial Review Company on May 1st, 1917, commenced a suit in Equity in the United States District Court for the Southern District of New York by the service of a summons and a verified Bill of Complaint, a copy of which is hereto annexed, together with a copy of the respondent's answer thereto in said suit, and marked respectively Exhibits C and D, and at the same time said Pictorial Review Company moved for a preliminary injunction restraining the respondent from continuing to use and from enforcing the existing district-agency agreement hereinbefore

referred to and annexed as Exhibit A; and directing the respondent to cancel the same; that it will appear from the pleadings annexed hereto as Exhibits C and D that the issues involved in said suit in Equity are similar to the issues raised by the Complaint and answer in this proceeding.

That upon the hearing of the said motion for a preliminary injunction in said suit on May 31st, 1917, the said Pictorial Review Company submitted to the Court voluminous affidavits setting forth in detail the facts on which the said application was based and in support thereof and the respondent submitted full affidavits in detail setting forth the facts in opposition to said application by which said affidavits of the parties a full and detailed statement of the facts involved was presented to the Court, and in addition thereto the matter was duly argued at length before Hon. Augustus N. Hand, Judge of said United States District Court sitting in Equity on said May 1st, 1917. That thereafter on June 26th, 1917, the said Judge, after full consideration of all the facts submitted by the parties as aforesaid, rendered an opinion, a copy of which is hereto annexed and marked Exhibit D, and thereupon an order was duly entered denying the plaintiff's application for a preliminary injunction in said suit. That said suit in Equity is now pending and awaiting trial in the United States District Court for the Southern District of New York, and will, as respondent is informed and believes, be reached for trial during the early Fall of 1917, at which time the parties thereto will be called upon and will have an opportunity to adduce all of their proofs in support of their respective claims, and the issues in said suit will be submitted to said Court for final determination.

All of which matters and things in this answer this respondent is ready and willing to aver, maintain and

prove, as this Honorable Commission shall direct, and prays that the said Complaint be dismissed.

THE CURTIS PUBLISHING COMPANY.
By C. H. LUDINGTON,
*Vice President.*

CARTER, LEDYARD & MILBURN,
*Counsel.*

---

## EXHIBIT "A."

### DISTRICT AGENCY AGREEMENT.

Form JDA3-a

WHAT THE PUBLISHERS WILL DO

WITNESSETH, that the Publishers hereby covenant and agree:

*Territory*

1. To appoint the said Party of the Second Part as District Agent for THE SATURDAY EVENING POST, THE LADIES' HOME JOURNAL and THE COUNTRY GENTLEMAN, in and for the City of ....., State of ....., for the period hereinafter described, to commence either with THE SATURDAY EVENING POST and THE COUNTRY GENTLEMAN dated ....., 19.., and with THE LADIES' HOME JOURNAL for the month of....., 19.., or with later issues, at the option of the Publishers (this contract must be accompanied by one of the Company's order-blanks stating the number of copies desired of each of these issues);

*Rates*

2. To supply the District Agent with copies of THE SATURDAY EVENING POST and of THE COUNTRY GENTLEMAN at two and one-half cents (2½c.) each, and of THE LADIES' HOME JOURNAL at nine and three-quarters cents (9¾c.) each, transportation charges prepaid, provided that if the District Agent fail to prove himself entitled to the wholesale rates by wholesaling each publication to sub-agents, and by sending on time, the required fully itemized, sub-agents' sales reports, or if the District Agent fail to maintain a net sale of his quota of *any one* publication, as required by Clause 8, the Publishers may then charge three cents a copy for THE SATURDAY EVENING POST and for THE COUNTRY GENTLEMAN and eleven cents a copy for THE LADIES' HOME JOURNAL, or may, at their option, terminate the contract after thirty days' notice and appropriate the cash security;

*Returns*

3. To give credit to the District Agent, at the price paid, for unsold copies returned *in accordance with the regulations governing returns, as stated on the order-blanks last issued by the Company;*

*Shipments*

4. Of each publication to forward by mail, express or freight, at the option of the Publishers, copies ordered in advance, as hereinafter provided, at a time intended to se-

cure delivery to the District Agent one day before the sale date, *provided that the District Agent complies with Clause 10;*

*Interest*

5. To pay the District Agent interest at five per cent per annum upon the amount of the cash security remitted by him, as shown by Clause 16;

*Cash Refund*

6. To credit to the account of or to return to the District Agent after his fulfillment of his obligations under this agreement (of which the notice on the reverse side is a part), his cash security; provided, that if the District Agent should fail to do as agreed, then his cash security with any accumulated interest may be appropriated by the Publishers without notice.

WHAT THE DISTRICT AGENT WILL DO

WITNESSETH, that the District Agent hereby covenants and agrees:

*Prepayment*

7. To remit *in advance,* either according to the schedule on the printed order-blanks or by deposits sufficient to prepay for a months' supplies, and he hereby deposits with the Publishers $.....as the first advance payment;

*Net Sales*

8. To sell at least.....copies of each issue of THE SATURDAY EVENING POST, at least .....copies of each issue of THE LADIES' HOME JOURNAL, and at least.....copies

of each issue of THE COUNTRY GENTLEMAN;

*Sub-Agents*

9. To supply sub-agents, both boys and dealers, with THE SATURDAY EVENING POST and THE COUNTRY GENTLEMAN *at* THREE CENTS a copy for re-sale at FIVE CENTS a copy, and with THE LADIES' HOME JOURNAL *at* ELEVEN CENTS a copy for re-sale at FIFTEEN CENTS a copy, and to make deliveries early on the morning of the sale date;

*Premature Sales*

10. To refrain from displaying, deliverins or selling any copies to boys, dealers or retail customers BEFORE the authorized sale date, as specified on the printed order-blank furnished by the Publishers;

*Trespassing*

11. To refrain from selling any copies in any territory known to be controlled by another agent-under-contract;

*Imprints*

12. To prevent any firm or person from stamping or pasting any advertising notice upon any page of the District Agent's copies and from enclosing any advertising circular therein, provided that the District Agent or any sub-agent may stamp his name *as agent for,* or insert circulars *intended solely to increase the sales of the Curtis Publications;*

*Other Periodicals*

13. To refrain hereafter from wholesaling to boys or dealers (and from attempting to influence any

Curtis agent to sell) any periodicals other than those published by The Curtis Publishing Company, and to refrain from furnishing any other publisher or his agent with the names and addresses of any Curtis agents, *without first obtaining the approval of the Publishers;*

*Reports*

14. To send to the Home Office, on blanks furnished by the Publishers, not later than directed by the report blanks, reports itemizing the number of copies of each publication sold by each boy, dealer or other sub-agent, or sold at retail by the District Agent or his employees, and to distribute Prize Vouchers regularly to sub-agents, according to instructions from the Publishers, provided that Prize Vouchers shall be given to sub-agents only and are not redeemable by the District Agent nor by his relatives or salaried employees;

*Telegrams*

15. To pay any collect charge, not exceeding that for a ten-word telegram, from the Publishers concerning any remittance not received by the Publishers, and more than two days late from the District Agent; and to send "collect" to the Publishers a code telegram of a length not exceeding ten words to trace any shipment of 100 or more copies not received *on or before the last day train on the sale*

*date* FROM A FULLY PREPAID ORDER BY THE DISTRICT AGENT.

*Cash Security*

16. To permit the Publishers to retain, throughout the life of this agreement, possession of the $.... herewith remitted by the District Agent as cash security for his performance of his several obligations hereunder.

How This Agreement May Be Terminated

WITNESSETH, that it is further agreed and understood by and between the Publishers and the District Agent:

*Termination*

17. That this contract shall continue in full force and effect on the above terms for at least one year following the date of ratification;

*By Agent*

18. That the District Agent may withdraw from this contract either at the end of or within the year, and secure the return of his cash security with interest by doing ALL of these things: (a) By giving the Publishers THIRTY DAYS' NOTICE of his intention to withdraw; (b) by obtaining a successor satisfactory to the Publishers; (c) by obtaining and forwarding to the Publishers the successor's signed contract, deposit and security; and (d) by giving all his right, title, interest and goodwill in the Curtis agency to the suc-

cessor, including a written agreement to buy from the successor all copies the District Agent may thereafter order;

*By Publishers*

19. That the Publishers may terminate this contract *without notice,* in case of strike, fire, flood, earthquake, change in the postal rate or in the retail price of any one of the three publications; or may at any time terminate it by giving *at least thirty days' notice before cutting off supplies* and by returning the security with interest; or may cancel the contract and appropriate the cash security should the District Agent fail either to sell the quota number given in Clause 8, for any one of the three publications, or fail in any other particular to do as herein agreed;

*Holding Over*

20. That if the Publishers send and the District Agent accepts, copies of one of the three publications of an issue later than the last within the *first* year of this agreement, *then it shall continue in full force and effect for the* SECOND *year,* upon the same terms and with the same withdrawal conditions as for the *first* year, and in the event of holding over for a *third* year, or longer, either may withdraw during or after the third year according to conditions in Clauses 18 and 19, respectively.

IN WITNESS WHEREOF, the Parties to these Presents have hereunto set their hands.

1. THE CURTIS PUBLISHING COMPANY (the Publishers),

*by*.....(*Representative*)

2.....(*District Agent*)

.....(*Street*)

| Names | WITNESSES | Street Addresses |
|---|---|---|
| 1..... | | ..... |
| 2..... | | ..... |

NOTICE—If the intending agent is a minor, the signature of his parent or guardian must appear as District Agent.

---

NOTICE TO THE INTENDING DISTRICT AGENT.

A sound business policy requires that we agree in advance upon terms to which each of us shall adhere.

Before you sign as our representative you are strongly urged to read and to have a thorough understanding of each clause of this contract and of each requirement on the printed order-blanks in use by the Company.

No other than an officer of the Company is empowered to modify or alter in any detail the terms of either this contract or the Company's order-blank. No branch manager, no traveling representative or other field worker has such authority. It is understood that your acceptance of this contract is given only in consideration of the privileges detailed in the contract, not because of any additional verbal or other promises made by any person whomsoever.

Before you sign, understand that this contract places upon us no obligation to divert to you the orders

of any dealers who may now be obtaining copies of the Curtis publications from the American News Company, or any of its Branches; nor of any agents of the Home Pattern Company, or of certain Railway News Companies who may now be obtaining copies directly from our Home Office; nor does the contract contemplate our terminating the activities of any subscription representative who may now be soliciting or who may hereafter solicit in your city.

This contract is offered to you by the Publishers only because they believe Y-O-U are the right man for the place. It is understood that by accepting the contract you signify your intention of devoting your own time and personal attention to the management of the agency and that you will not lease or sub-let to another or transfer the management of the agency to another in any way except as stipulated in the contract. Our ratification of the proposed contract will not make the agency yours to barter and sell without our sanction. Our ratification of the proposed agreement will give you only the rights specified in the contract—no more.

This contract will become binding upon the Publishers when received and ratified by the Home Office, not before.

THE CURTIS PUBLISHING COMPANY

Sales Division, Circulation Department

5713B PHILADELPHIA, PENNSYLVANIA S140

Endorsed: ARTICLES OF AGREEMENT, Made this..... day of....., 19.., between THE CURTIS PUBLISHING COMPANY, Philadelphia, Pennsylvania, Party of the First Part, hereinafter referred to as the Publishers, and..... City..... State ....., Party of the Second Part, hereinafter referred to as the District Agent.

## EXHIBIT "B."

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK.

*The Pictorial Review Company,*
Complainant,
against
*The Curtis Publishing Company,*
Defendant.

*To the Judges of the United States District Court for the Southern District of New York:*

THE PICTORIAL REVIEW COMPANY, a corporation duly organized and existing under and by virtue of the laws of the State of New York, having its principal place of business in the City, County and State of New York, and being an inhabitant of the Southern District of New York, complainant, brings this its bill of complaint, under the anti-trust laws, against The Curtis Publishing Company, a corporation organized and existing under and by virtue of the laws of the State of Pennsylvania and having its principal place of business in the City of Philadelphia, State of Pennsylvania, defendant, and shows to the Court the following, to wit:

I. The complainant is a corporation duly organized and existing under and by virtue of the laws of the State of New York, having its principal place of business in the City, County and State of New York, and is an inhabitant of the Southern District of New York; the defendant is a corporation duly organized and existing under and by virtue of the laws of the State of Pennsylvania and having its principal place of business in the City of Philadelphia, State of Pennsylvania, and, upon information and belief, is now

and for a long time has been regularly maintaining offices and agents within the State and Southern District of New York and carrying on and transacting business therein, and has designated an agent within the State of New York on whom process may be served, pursuant to the provisions 15 and 16 of the General Corporation Law of the State of New York, Chapter 563 of the Laws of 1890, and the Acts amendatory thereof and supplemental thereto, and has complied with the requirements of statutes of the State of New York to authorize it to do business in said State, and has procured from the Secretary of State of the State of New York a certificate evidencing such compliance; that the matter in dispute herein exceeds the sum or value of Three thousand dollars ($3,000), exclusive of interest and costs.

II. The complainant is the owner, proprietor and publisher of a monthly magazine called the "Pictorial Review"; the said magazine containing articles, illustrations and other material or matter of special interest to women; and the defendant is the owner, proprietor and publisher of a monthly magazine called "The Ladies' Home Journal," which magazine likewise contains articles, illustrations and other material or matter of special interest to women.

III. That said defendant is also the proprietor and publisher of two weekly magazines or periodicals, one of which is called "The Saturday Evening Post," and the other "The Country Gentleman."

IV. That the two said magazines the "Pictorial Review" and "The Ladies' Home Journal" are similar in design and in treatment of material and are intended to reach the same class of readers.

V. That the said magazine the "Pictorial Review" is published in the City, County and State of New York, and has a monthly circulation in excess of one million three hundred thousand copies, and its subscribers and readers to whom it is shipped from the City, County and State of New York, are in each and every one of the United States of America, so that the complainant in selling and distributing its said magazine is engaged in interstate commerce.

VI. That the magazine of the defendant "The Ladies' Home Journal" is published in the City of Philadelphia, State of Pennsylvania, and has a circulation, upon information and belief, of approximately one million six hundred thousand copies a month; that this magazine, together with the other magazines and periodicals published by the defendant, has a large circulation throughout the United States, so that the defendant also, in selling and distributing said magazine, is engaged in interstate commerce.

VII. Upon information and belief, that the "Pictorial Review," the publication of the complainant, is the principal competitor of "The Ladies' Home Journal," the publication of the defendant.

VIII. That said magazines of the parties hereto are distributed to readers largely through intermediaries known as wholesalers, that is to say, that instead of said magazines being shipped direct from the publisher to reader, the greater number of said magazines are sold and shipped to wholesalers, and these wholesalers in turn distribute to local dealers and the local dealers to readers; that with few exceptions there is in each city and large town in the United States one wholesaler who sells magazines and other publications to retail dealers in the city or town and the surrounding territory, and that substantially all of the retail dealers

in magazines and periodicals in the United States purchase their supplies of magazines and periodicals from such wholesalers; that in each such city and large town there is, with few exceptions, only one such wholesaler, and with few exceptions, there is in each such city and large town no other person familiar with or in touch with or having facilities or experience for the distribution of magazines and periodicals to retail dealers in such city or town and surrounding territory; and that, with few exceptions, each of said wholesalers above referred to is the wholesaler of all of the better known and widely circulated magazines and periodicals, including the "Cosmopolitan," "Hearst's," "Munsey's," "Argosy," "Literary Digest," "Good Housekeeping," "Harper's Bazar," "Collier's," etc., and that, with few exceptions, each of such wholesalers above referred to is the wholesaler for the defendant for the sale of "The Ladies' Home Journal" and the other publications of the Curtis Publishing Company for such city or town and the surrounding territory; consequently, a publisher or proprietor of a magazine or magazines does not have a distributing agent acting exclusively for him and for no other periodical in a city, county or other subdivision of territory for the distribution of its magazine or magazines, except in very rare cases.

IX. Upon information and belief, that the defendant corporation, prior to the time that its said magazines are shipped to the wholesaler, enters into a written contract for the sale of its said publications with such wholesaler, and requires of said wholesaler that a cash bond to the defendant corporation accompany the delivery of said written contract; that each and every contract entered into as aforesaid by the defendant corporation with the wholesaler or district

agent as he is termed, contains substantially the following clauses, to wit:

> "OTHER PERIODICALS: The District Agent hereby covenants and agrees; to refrain hereafter from wholesaling to boys or dealers (and from attempting to influence any Curtis agent to sell) any periodicals other than those published by The Curtis Publishing Company, and to refrain from furnishing any other publisher or his agent with names and addresses of any Curtis agents, without first obtaining the approval of the Publishers."

> "A CASH BOND WITH CONDITION FOR THE EXECUTION OF THE AGREEMENT.

> Know all men by these presents, that the District Agent has today deposited with The Curtis Publishing Company, (Amount) ..... as security for the performance of this contract.

> The condition of this bond is such that if the District Agent shall well and truly execute his part of the agreement (of which the notice on the reverse side is a part) with the Curtis Publishing Company, of Philadelphia, Pennsylvania, according to its terms as set forth in this contract, then this cash bond, with interest at five per cent per annum, shall be returned by the said Curtis Publishing Company; whereas, on the other hand, it is agreed that if the District Agent should fail to do as agreed, then the condition of this obligation is that this cash bond, with any accumulated interest, may thereby be appropriated by the said Curtis Publishing Company without notice."

On information and belief, that no other magazine publisher other than defendant exacts from the wholesalers any such agreement as that referred to hereinabove in this paragraph and contained in defendant's contracts.

X. Upon information and belief, that in accordance with the terms of the contract entered into by the

defendant with the wholesalers, many of these said wholesalers before agreeing to buy, resell and distribute other publications attempted to secure the approval of the defendant in so doing; and, upon information and belief, that after entering into such contracts many other of said wholesalers attempted to secure permission from the defendant corporation to continue buying, reselling and distributing the publications of other publishers; and, upon information and belief, that in each and every instance where such permission was sought the defendant corporation readily agreed that the wholesalers could buy, resell and distribute such publications, except the publication of the complainant, to wit, the "Pictorial Review."

XI. Upon information and belief, that the defendant corporation has since on or about the 1st day of February, 1917, repeatedly and consistently refused permission to any wholesaler to buy, resell and distribute the publication of the complainant corporation, and where the defendant corporation has had information that such wholesaler has, without its permission, bought, resold and distributed complainant's publication, it has informed said wholesaler that such wholesaler has violated his contract with the defendant and that unless such wholesaler refuses further to buy, resell and distribute the publication of complainant corporation, it, the defendant, will refuse to recognize such wholesaler as its representative and will declare a forfeiture of the bond under the terms of said contract entered into as aforesaid by said wholesaler with the defendant.

XII. That as a result of the aforesaid acts of the defendant many of the wholesalers buying, reselling and distributing complainant's publications have notified the complainant that they would no longer deal in

or distribute the "Pictorial Review," complainant's publication, because they had been notified by the defendant that to do so would be a violation of their contract with the defendant and would result in their losing the business of the defendant and would be punished by a forfeiture of the cash bond in favor of the defendant, and that other wholesalers have declined and refused to deal in and distribute complainant's publication because defendant, upon application to it by such wholesalers, had refused its permission to such wholesalers to so act as a distributor of complainant's said publication.

XIII. That as a result of the aforesaid acts of the defendant the complainant has been compelled, in order to maintain the circulation of its magazine in the territory where the wholesaler has refused to distribute the complainant's magazine as aforesaid, to despatch a special representative at large expense to such locality to obtain someone to distribute its said magazine, and that the distributor so obtained usually has little, if any, knowledge of the requirements of such business or facilities for making distribution and on account of the small profit accruing in buying, reselling and distributing the magazine of one publisher alone, the complainant has been compelled to make payments to such independent distributors in addition to the amounts obtained by such independent distributors through the resale of the magazine to the retailers, which additional expense does not accrue in dealing with the established wholesalers hereinabove referred to, who, because of the fact that they buy, resell and distribute the publications of a large number of publishers, carry on the business without any compensation and obtain their profit solely through the sale of the publications to the retailers at a price in excess of that paid by the wholesaler to the publisher.

XIV. Upon information and belief, that defendant since on or about February 1, 1917, has been and is now endeavoring to prevent wholesalers from buying, reselling and distributing complainant's said magazine, the "Pictorial Review," and as a result thereof many wholesalers have refused to buy, resell and distribute complainant's said magazine, and the number of wholesalers who are thus refusing to buy, resell and distribute complainant's magazine is increasing day by day; and the total of such refusals is now large and is making it difficult and practically impossible for complainant to send out special representatives to obtain independent dealers in the cities and communities in which wholesalers, by reason of the defendant's acts, have refused to buy, resell and distribute the complainant's magazine; and that the independent dealers and agents who have been obtained are unfamiliar with the business of wholesaling magazines and have not the facilities, experience, knowledge and equipment to carry on the same successfully or economically, and are only able to dispose of a much smaller number of copies of complainant's magazine than the wholesaler in the same community.

XV. Upon information and belief, that the direct effect of defendant's arbitrary, unreasonable, unfair and unlawful acts as aforesaid is to substantially lessen competition and the said acts tend to create a monopoly in violation of Sec. 8833C of the United States Compiled Statutes of 1916 (Sec. 3 Chapter 323 of the Acts of Congress of October 15, 1914, otherwise known as the "Clayton Act").

XVI. Upon information and belief, that the said unlawful, arbitrary, unreasonable and unfair acts as aforesaid of the defendant have damaged the complainant in the sum of One hundred thousand dollars ($100,000).

XVII. Upon information and belief, the complainant has no adequate remedy at law; that therefore in order (1) to avoid a multiplicity of suits, (2) to prevent a continuance of said acts of the defendant which have caused great damage to the complainant, and which, if continued, will result in irreparable loss and damage to complainant, and (3) to indemnify the complainant for damage already suffered by reason of the aforesaid acts of the defendant,

Complainant prays the Court to grant it a writ of injunction pendente lite:

(1) enjoining and restraining the defendant from selling or making any contracts for the sale of its said publications upon the condition, agreement or understanding that the purchaser thereof shall not deal in complainant's said magazine, the "Pictorial Review"; and

(2) enjoining and restraining the defendant from selling or making any contracts with wholesalers or district agents for the sale of the defendant's said publications which in substance and effect contain the clause headed "OTHER PERIODICALS" hereinabove referred to and set forth in paragraph "IX" of this bill of complaint; and

(3) enjoining the defendant from cancelling or from threatening, either orally or in writing, to cancel outstanding contracts entered into by it with wholesalers and district agents because or by reason of the acts of wholesalers or district agents in buying, reselling and distributing the complainant's said magazine, the "Pictorial Review"; and

(4) directing and compelling defendant to cancel and nullify the clause or covenant in outstanding contracts entered into by it with wholesalers or district

agents to the effect that such wholesalers or district agents shall not buy, resell or distribute periodicals or publications other than those published by the defendant, except with the consent or approval of the defendant.

And for a permanent injunction:

(1) enjoining and restraining the defendant from selling or making any contracts for the sale of its said publications upon the condition, agreement or understanding that the purchaser thereof shall not deal in complainant's said magazine, the "Pictorial Review"; and

(2) enjoining and restraining the defendant from selling or making any contracts with wholesalers or district agents for the sale of the defendant's said publications which in substance and effect contain the clause headed "OTHER PERIODICALS" hereinabove referred to and set forth in paragraph "IX" of this bill of complaint; and

(3) enjoining the defendant from cancelling or from threatening, either orally or in writing, to cancel outstanding contracts entered into by it with wholesalers and district agents because or by reason of the acts of wholesalers or district agents in buying, reselling and distributing the complainant's said magazine, the "Pictorial Review"; and

(4) directing and compelling defendant to cancel and nullify the clause or covenant in outstanding contracts entered into by it with wholesalers or district agents to the effect that such wholesalers or district agents shall not buy, resell or distribute periodicals or publications other than those published by the defendant, except with the consent or approval of the defendant.

And complainant further prays for a judgment against the defendant for threefold the damages sustained by it on account of the aforesaid acts of the defendant and the costs of this suit including reasonable attorneys' fees;

And for such other and further and general relief as to the Court may seem just and equitable.

STANCHFIELD & LEVY,
*Solicitors for Complainant,*
Office & Post Office Address,
120 Broadway,
Borough of Manhattan,
City of New York.

---

State of New York, }
County of New York, } *ss.:*

Everitt D. Trumbull, being duly sworn, deposes and says that he is the Vice-President of The Pictorial Review Company, the complainant above named, a domestic corporation; that he has read the foregoing bill of complaint and knows the contents thereof; that the same is true of his own knowledge except as to the matters therein stated to be alleged on information and belief, and as to those matters he believes it to be true.

Sworn to before me this }
day of April, 1917. } EVERITT D. TRUMBULL.

J. M. Beattin,
*Notary Public,* N. Y. County.
Co. Clk's. No. 302. Reg. No. 8170.

## EXHIBIT "C."

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK.

*The Pictorial Review Company,*
Complainant,
against
*The Curtis Publishing Company,*
Defendant.

In Equity.

### THE ANSWER OF THE DEFENDANT, THE CURTIS PUBLISHING COMPANY, TO THE BILL OF COMPLAINT OF THE PICTORIAL REVIEW COMPANY, PLAINTIFF.

The defendant, for answer to the Bill of Complaint herein, (hereinafter called the Bill) says:

I. It denies each and every averment contained in the fourth paragraph of the bill except that it admits that the magazines mentioned therein are of somewhat similar design.

II. It is without knowledge of any of the matters averred in the fifth paragraph of the Bill.

III. It denies each and every averment contained in the seventh paragraph of the Bill.

IV. It denies each and every averment contained in the eighth paragraph of the Bill, and avers that the plaintiff in cases where it has not distributed its magazine direct to readers through private subscription, has for many years past distributed its said magazine to retail dealers through the agency of the American News Company, a wholesale distributing and selling organization which has an efficient service throughout the United States in the cities and towns thereof, for the distribution of magazines and various other publications among the retail dealers, and that the plain-

tiff has not during such time employed or utilized the services of any other so called wholesalers except to a very limited extent, and it further avers that the defendant has for many years past, in addition to its distribution direct to readers by subscriptions, distributed its magazines partly through the American News Company but to a very large extent through various district-agents, fifteen hundred and thirty-two in number, employed by it in various cities and towns for the purpose of distributing its magazines through retail dealers and through an organization of boy distributors, numbering about fifty thousand, who are under the supervision and direction of said district-agents, and it further avers that the retail dealers in magazines in the various cities and towns have ample sources of supply for the magazines and publications handled by them other than the defendant's district-agents, and have at all times been able to obtain such magazines and other publications as they desire to handle, including the plaintiff's magazine, from the American News Company and from other sources of supply.

V. It denies each and every allegation contained in the ninth paragraph of the Bill except that it admits that defendant's contracts with the district-agents employed by it as aforesaid and referred to in the fourth paragraph of this answer, with a few exceptions, contain the provisions set forth in the said ninth paragraph of the Bill.

VI. It denies each and every averment contained in the tenth paragraph of the Bill, and avers that in some instances the defendant's district-agents referred to herein have sought and have obtained from the defendant, in accordance with the terms of the contract referred to in the Bill, its approval of the sale by such district-agents at wholesale of various periodicals other than those published by the defendant and it further avers that in other instances the defendant's

approval has been sought and refused; such refusal by the defendant being based either upon the fact that the district-agents seeking such approval were not in a position to handle additional business or upon the fact that to approve of such district-agents handling the publications of other persons would place at the disposal of such other persons for the distribution of their magazines to the injury of the defendant and its business the organization of boys and district-agents originated and maintained by the defendant at large expense for its own use and benefit.

VII. It denies each and every averment contained in the eleventh paragraph of the Bill and avers that it had prior to January, 1917, given its approval to only six of its fifteen hundred and thirty-two district-agents to engage in the wholesale distribution of plaintiff's publication, and avers that after January, 1917, such approval was withdrawn because it had been brought to the defendant's attention that the plaintiff was engaged in a campaign to obtain for itself the use of the said agencies of distribution maintained by the defendant.

VIII. It is without knowledge of any of the matters averred in the twelfth paragraph of the Bill, except that it admits that the six district-agents employed by defendant and referred to in the seventh paragraph of this answer have discontinued the wholesale distribution of plaintiff's publication.

IX. It denies each and every averment contained in the thirteenth paragraph of the Bill except that it is without knowledge as to what steps the plaintiff has taken to distribute its said magazine or as to what expense the plaintiff may have been put in so doing.

X. It denies each and every averment contained in the fourteenth paragraph of the Bill except that it is without knowledge as to what efforts the plaintiff is

now making in the wholesale distribution of its magazine or as to what success attends those efforts.

XI. It denies each and every averment contained in the fifteenth, sixteenth and seventeenth paragraphs of the Bill.

XII. For a Separate Defense to the Bill herein, the defendant avers that there is a misjoinder of causes of action in said Bill and that the said Bill is multifarious inasmuch as this is a suit in equity for injunctive relief and there is combined with such cause of action herein alleged, cognizable only in equity, a claim or cause of action for treble damages under Section 8835d of the United States Compiled Statutes of 1916, being Section 4 of Chapter 323 of the Act of Congress of October 15th, 1914, known as the Clayton Act, which is a cause of action cognizable at law and only enforceable by the verdict of a jury in a court of common law.

All which matters and things in this answer and the separate defense thereof this defendant is ready and willing to aver, maintain and prove, as this Honorable Court shall direct, and prays to be hence dismissed, with its reasonable costs and charges in this behalf most wrongfully sustained.

THE CURTIS PUBLISHING COMPANY,

By C. H. Ludington,
*Vice-President.*

Joseph W. Welsh,

John G. Milburn, Jr.,
*Solicitors for said Defendant,*
54 Wall Street,
New York City.

John G. Milburn,
*Of Counsel.*

## EXHIBIT "D."

UNITED STATES DISTRICT COURT;
SOUTHERN DISTRICT OF NEW YORK.

*The Pictorial Review Company*
Complainant
against
*The Curtis Publishing Company*
Defendant

STANCHFIELD & LEVY, Solicitors for Complainant, John B. Stanchfield, William M. Parke and Toney A. Hardy, Counsel.

JOSEPH W. WELSH AND JOHN G. MILBURN, JR., Solicitors for the Defendant, John G. Milburn, Counsel.

AUGUSTUS N. HAND, *District Judge:*

The complainant corporation publishes the "Pictorial Review," and the defendant the "Ladies' Home Journal," "The Saturday Evening Post" and the "Country Gentleman." The "Pictorial Review" has been distributed by the American News Company, a distributing agency, which has about sixty branches throughout the United States. The defendant, on the other hand, has put the "Ladies' Home Journal" on the market through wholesale dealers of established efficiency in the various towns and cities of the United States. Munsey seems to have distributed his publications to some degree as early as the year 1890 through local dealers, but the defendant in 1899 introduced an elaborate system for training newsboys to do expert work in selling magazines. It was evidently the opinion of the defendant that the circulation of its magazines would be greatly promoted if the newsboys

selling the defendant's publications were organized, their mental and moral progress stimulated, and a legitimate ambition to excel in their work fostered. The affidavit of its circulation manager describes the system. It involves the appointment by the defendant of district agents who select the boys and teach them to sell. These agents make a weekly detailed report to the defendant as to each boy. The boys form a "League of Curtis Salesmen" consisting only of school boys, and with various ranks. These ranks are determined by proved efficiency. Each league member is given a Y. M. C. A. membership paid for by the defendant, and the latter undertakes to secure a good position for each master salesman after he has finished and outgrown the work. More than 2,000 firms and corporations appear to have filed applications with the defendant to secure these graduate master salesmen as employees. Regular publications are issued monthly as a part of this system: (1) To the district agent; (2) to the boys; (3) to the parents and teachers of the boys. The defendant has spent a large amount of money in developing and maintaining this system. Sometimes the defendant has selected as its district agents wholesalers who had an existing staff of newsboys, but in such cases the boys have apparently become a real part of the "League of Curtis Salesmen," and have been required to conform to the system. More often the district agents and their staff of boys have been started and developed from the beginning through the labors of the defendant, and in many cases the district agents have been old Curtis boys, who have graduated from their earlier work, followed the same general kind of business and become wholesale dealers for the Curtis Company. This system was used by the defendant to promote the sale of The Saturday Evening Post and

was so successful that it employed it with the Ladies' Home Journal.

It is evident that supervising district managers were necessary to carry out the plan I have described, and defendant in contracting with these managers has provided that they should pay for magazines furnished them in advance and should supply sub-agents, both boys and dealers, with copies of defendant's publications at fixed rates. It also has provided that the district agents shall refrain from wholesaling to boys or dealers and from attempting to influence any Curtis agent to sell any periodical other than those published by the Curtis Publishing Company, and shall refrain from furnishing any other publisher or his agent with the names and addresses of any Curtis agents without first obtaining the approval of the publishers. This clause in the contract with the district agents relating to the Curtis boys is sub-division 12, and is as follows:

> "To send to the Home Office, on blanks furnished by the Publishers, not later than directed by the report blanks, reports itemizing the number of copies of each publication sold by each boy, dealer or other sub-agent, or sold at retail by the District Agent or his employees, and to distribute Rebate Vouchers regularly to sub-agents, according to instructions from the Publishers, provided that Rebate Vouchers shall be given to sub-agents only and are not redeemable by the District Agent nor by his relative or salaried employees."

The district agents may sell any magazines they desire, including the complainant's, at their own news stands, but their contracts forbid them to furnish boys or retail dealers with magazines other than those of the defendant, without first obtaining the defendant's approval. Such approval has been in general granted, but has been refused in the case of the Pictorial Review. That magazine is the active competitor of the

Ladies' Home Journal. Each has a large sale throughout the country and is of special interest to women. The marked success of defendant's system of marketing its magazines has attracted the complainant, and the latter desires to avail itself of defendant's wholesale agents without the expense which is involved in building up such a system as the defendant has employed. It argues that the defendant cannot insist that its wholesalers shall not market the Pictorial Review without violating the Clayton Act for the reason that a contract that the District agents shall not deal in the Pictorial Review through newsboys or sub-dealers substantially lessens competition and is forbidden by § 3 of that Act, which reads as follows:

> "Sec. 3. (Requiring purchasers, etc., of goods, etc., to refrain from handling goods, etc., of competitors). That it shall be unlawful for any person engaged in commerce, in the course of such commerce, to lease or make a sale or contract for sale of goods, wares, merchandise, machinery, supplies or other commodities, whether patented or unpatented, for use, consumption or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, or fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement, or understanding that the lessee or purchaser thereof shall not use or deal in the goods, wares, merchandise, machinery, supplies or other commodities of a competitor or competitors of the lessor or seller, where the effect of such lease, sale, or contract for sale or such condition, agreement or understanding may be to substantially lessen competition or tend to create a monopoly in any line of commerce."

I can have no doubt that the district agents or wholesalers who receive from the defendant the Ladies'

Home Journal and put it on the market are *purchasers* of the magazine. There can be no question in view of the payment in advance and the other elements of the transaction that title to the magazines which these wholesale agents receive passes to them. They are not mere factors or agents. Nevertheless they are clearly much more than purchasers. The prime characteristic of the Curtis system is to market the defendant's magazines through newsboys and to develop an efficient body of these boys by a proper selection in the first place, by keeping them in good surroundings, by appealing to their ambition through conferring ranks and prizes in case of success, and by obtaining good positions for those who have retired. There is no doubt that by means of this system the sale of the defendant's magazines is greatly increased.

If nothing but a sale were involved, I might support complainant's contention that defendant has violated the Clayton Act by preventing its wholesale dealers from selling the Pictorial Review through subdealers and boys, but what complainant evidently desires is not merely to sell to these wholesalers, which it can do already in cases where the wholesalers have a retail trade, and to the extent of that retail trade; but to avail itself of the organization of the Curtis boys, built up by the ingenuity, labor and capital of the defendant. The defendant in insisting upon maintaining the integrity of its system is not in my opinion guilty of unfair trade. On the contrary, the complainant in attempting to avail itself of this system is engaging in unfair trade. That it cannot build up a system of its own, if it desires to do so and will go to the trouble and expense, I do not believe. It is attempting here to secure a preliminary injunction to prevent the defendant from contracting with the latter's district agents not to market the Pictorial Review through boys and dealers. To grant such an in-

junction would break up what I think is a perfectly legitimate system for the promotion of sales of the defendant's magazines, and would enable the complainant, without expense, to employ the organization built up and fostered by the defendant. If I thought that the system of marketing defendant's magazines was a cover to avoid the provisions of the Clayton Act, or obtain a monopoly, I might reach a very different conclusion, but I am satisfied that the system is genuine, and not in any respect other than what it represents itself to be. It may not be entirely original, but I think it is doubtless due very largely to the constructive business ability of the defendant in devising an ingenious means of marketing its magazines. The principal reason doubtless for selling the magazines to the district agents rather than making consignments with consequent financial risks is one of safety and simplicity and is not sufficient, in my opinion, to subject the relations of the parties in all respects to those of mere vendor and vendee.

Judge Hough in the case of Great Atlantic & Pacific Tea Co. v. Cream of Wheat Company, 224 Fed. 566, held that the refusal of the manufacturers of Cream of Wheat to sell to a dealer who resells at retail at less than the regular price did not entitle the dealer to an injunction to restrain such conduct on the part of the manufacturer, and added that the substantial restraint of competition denounced by the Clayton Act is an unreasonable restraint. He placed his decision largely on the ground that defendant had a lawful monopoly in cream of wheat, because there could be nothing lawfully called "cream of wheat" without defendant's consent and approbation. It may in the same way be said in this case that the defendant has a lawful right to employ the means of selling its product exclusively through the League of Curtis Salesmen. It is not the monopoly of a patented article or of a trade-

name, but so long as the defendant is maintaining the above agency for selling its produce, just so long, I think, it has a right which the law will recognize to refuse to have its magazines sold by the boys if they are to handle at the same time a competing magazine of the complainant. The fact that they are a better trained set of boys, with a larger measure of experience and perhaps also of goodwill in the community than any which the complainant is likely readily to secure is immaterial. Any restraint of competition which may take place is due to no other cause than the employment by defendant of selling agents who contract not to distribute the Pictorial Review through sub-agents or boys who are engaged in selling the Ladies' Home Journal. In some towns there may be no existing agent as efficient as the one employed by the defendant, but that fact may in many cases be due to the thorough prosecution of the plan of organizing newsboys and selling magazines through them which the Curtis Publishing Company has developed. In these localities complainant can doubtless obtain equally good selling agencies by the expenditure of a similar amount of effort. Looking behind the form of the contract which the defendant makes with its agents to the inherent features of the transaction, I think it may be said that the selling arrangement more nearly resembles an agency conducted by district agents in co-operation with the Curtis boys than it does an outright sale to the district agents and nothing more. At any rate it has not been established with the clearness necessary to warrant the granting of a temporary injunction that the defendant's contract referred to causes an unreasonable restraint of trade or otherwise comes within the prohibitions of the Clayton Act. The motion for a temporary injunction must be denied.

Dated, June 23, 1917.

A. N. H.
*D. J.*

## STIPULATION (DATED AUGUST 23, 1917) WITH REFERENCE TO TIME AND PLACE OF HEARING.

UNITED STATES OF AMERICA,
BEFORE FEDERAL TRADE COMMISSION, } *ss.:*

*Federal Trade Commission*
v.
*The Curtis Publishing Company.* } Docket No. 15.

### STIPULATION.

It is agreed and stipulated by counsel for the complainant and respondent herein, respectively, that the hearing in the above entitled proceedings be continued to such time and place as may hereafter be agreed upon by said counsel, and if such time and place can not be agreed upon by said counsel, then the said hearing shall be continued to such time and place as may be fixed by the Federal Trade Commission on motion, with five days notice thereof to the opposite party, made to the Federal Trade Commission by counsel for either party herein.

(Signed) JOHN WALSH, M. C. D.,
*Acting Counsel for the Federal Trade Commission.*

CARTER, LEDYARD & MILBURN,
*Counsel for Respondent,*
*Curtis Publishing Company.*

August 23, 1917.

## ORDERS APPOINTING EXAMINER AND DESIGNATING TIME AND PLACE OF HEARING—BOTH DATED NOVEMBER 27, 1917.

UNITED STATES OF AMERICA,
BEFORE FEDERAL TRADE COMMISSION, } ss.:

---

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 27th day of November, A. D., 1917.

---

Present:

WILLIAM J. HARRIS, *Chairman*,
JOSEPH E. DAVIES,
WILLIAM B. COLVER,
J. FRANKLIN FORT,
VICTOR MURDOCK, } *Commissioners.*

---

*Federal Trade Commission*
v.
*The Curtis Publishing Company.* } Docket No. 15.

---

The above entitled proceedings being at issue and ready for the taking of testimony therein,

IT IS ORDERED, That Charles S. Moore, an examiner of this Commission, is hereby appointed and designated to receive and hear testimony, and to take evidence in said proceedings.

Dated November 27, 1917.

BY ORDER OF THE COMMISSION.

(Signed) LEONIDAS L. BRACKEN,
*Secretary.*

(Seal)

UNITED STATES OF AMERICA,
BEFORE FEDERAL TRADE COMMISSION, } *ss.:*

---

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 27th day of November, A. D., 1917.

---

Present:

WILLIAM J. HARRIS, *Chairman,*
JOSEPH E. DAVIES,
WILLIAM B. COLVER,
J. FRANKLIN FORT,
VICTOR MURDOCK, } *Commissioners.*

---

*Federal Trade Commission*
v.
*The Curtis Publishing Company.* } Docket No. 15.

---

The above entitled proceedings being at issue upon the complaint of the Commission and the answer of the respondent, the Curtis Publishing Company.

IT IS ORDERED, That the hearing of the proof of the charges of the complaint in the above entitled proceedings begin at New York, New York, on the sixth day of December, A. D., 1917, at ten o'clock in the forenoon.

Dated November 27, 1917.

BY ORDER OF THE COMMISSION.

(Signed) LEONIDAS L. BRACKEN,
*Secretary.*

(Seal)

## RESOLUTION (DATED FEBRUARY 27, 1918) FIXING TIME FOR HEARING MOTION OF COUNSEL FOR COMMISSION TO STRIKE CERTAIN PORTIONS FROM RESPONDENT'S ANSWER.

UNITED STATES OF AMERICA,
BEFORE FEDERAL TRADE COMMISSION, } *ss.:*

---

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 27th day of February, A. D., 1918.

---

Present:

WILLIAM J. HARRIS, *Chairman*,
JOSEPH E. DAVIES,
WILLIAM B. COLVER,
J. FRANKLIN FORT,
VICTOR MURDOCK, } *Commissioners.*

---

*Federal Trade Commission*
v.
*The Curtis Publishing Company.*

---

WHEREAS, in the proceeding of the Federal Trade Commission against the Curtis Publishing Company, now pending, counsel for the Commission has moved to strike from the answer of the respondent to the complaint therein, folios 19 to 26 inclusive thereof, which motion was not determined by the Examiner presiding at the taking of such testimony; therefore be it

RESOLVED, that said motion be heard by the Commission at its office at the City of Washington, D. C., on the 12th day of March, A. D., 1918, at 2:30 o'clock

in the afternoon, or as soon thereafter as counsel can be heard, and be it

FURTHER RESOLVED, that notice of the time and place of the hearing of said motion, as herein set forth, be given forthwith to counsel for respondent.

(Signed) L. L. BRACKEN,
(Seal) *Secretary.*

Dated February 27, 1918.

NOTICE (DATED MARCH 1, 1918) TO COUNSEL FOR RESPONDENT, OF MOTION OF COUNSEL FOR COMMISSION TO STRIKE CERTAIN PORTIONS FROM THE ANSWER OF THE RESPONDENT.

UNITED STATES OF AMERICA,
BEFORE FEDERAL TRADE COMMISSION, } *ss.:*

*Federal Trade Commission*
v.
*The Curtis Publishing Company.*

You will please take notice that on the 12th day of March, 1918, at 2:30 o'clock in the afternoon or as soon thereafter as the matter may be heard, the undersigned will move the Commission to strike from the answer of the above-named respondent, served and filed in the above-entitled proceeding, the following matter, to wit:

"For FURTHER ANSWER to the complaint herein, the respondent alleges as follows:

"That the complaint herein was issued as the result of an application to the Federal Trade Commission by The Pictorial Review Company, a corporation organized and existing under and by virtue of the laws of the State of New York, having its principal office and place of business in the City of New York, and which is now and has been for some time past, engaged in the publication, sale and circulation of a periodical known as the "Pictorial Review."

"That the respondent, early in April, 1917, was informed by the Federal Trade Commission, that complaint had been made by the Pictorial Review Company with respect to its said contract with its district-agents hereinbefore in this answer referred to, and that on April 10th and April 30th and May 15th, 1917, the respondent appeared before this Commission and explained its method of carrying on its

said business under its said district-agency agreement and through its said organization of district-agents and boy distributors.

"That thereafter, and while the said matter was still pending and was receiving the consideration of this Commission, and before the issuing of the complaint herein, the Pictorial Review Company, on May 1, 1917, commenced a suit in equity in the United States District Court for the Southern District of New York by the service of a summons and a verified bill of complaint, a copy of which is hereto annexed, together with a copy of the respondent's answer thereto in said suit, and marked respectively Exhibits C and D, and at the same time said Pictorial Review Company moved for a preliminary injunction restraining the respondent from continuing to use and from enforcing the existing district-agency agreement hereinbefore referred to and annexed as Exhibit A, and directing the respondent to cancel the same; that it will appear from the pleadings annexed hereto as Exhibits C and D that the issues involved in said suit in equity are similar to the issues raised by the complaint and answer in this proceeding.

"That upon the hearing of the said motion for a preliminary injunction in said suit on May 31st, 1917, the said Pictorial Review Company submitted to the court voluminous affidavits setting forth in detail the facts on which the said application was based and in support thereof, and the respondent submitted full affidavits in detail setting forth the facts in opposition to said application by which said affidavits of the parties a full and detailed statement of the facts involved was presented to the court, and in addition thereto the matter was duly argued at length before Hon. Augustus N. Hand, Judge of said United States District Court sitting in equity on said May 1st, 1917. That thereafter on June 26th, 1917, the said Judge, after full consideration of all

> the facts submitted by the parties as aforesaid, rendered an opinion, a copy of which is hereto annexed and marked Exhibit D, and thereupon an order was duly entered denying the plaintiff's application for a preliminary injunction in said suit. That said suit in equity is now pending and awaiting trial in the United States District Court for the Southern District of New York, and will, as respondent is informed and believes, be reached for trial during the early fall of 1917, at which time the parties thereto will be called upon and will have an opportunity to adduce all of their proofs in support of their respective claims, and the issues in said suit will be submitted to said Court for final determination."

for the reason that the matter therein alleged neither admits nor denies, nor explains, any of the facts alleged in the complaint, and presents a matter foreign to the issues in said proceeding, and that the matter therein alleged is not in compliance with Rule 3 of the Rules of Practice before the Commission, adopted by it on June 17, 1915.

(Signed) JOHN WALSH,
*Chief Counsel for the Federal Trade Commission.*

Dated March 1, 1918.

To the respondent, the Curtis Publishing Company and to Carter, Ledyard and Milburn, its counsel.

---

Endorsed: United States of America; Before Federal Trade Commission. The Federal Trade Commission vs. The Curtis Publishing Company. Notice of Motion. Service of the within notice admitted this 2nd day of March, 1918. (Signed) Carter, Ledyard & Milburn, Counsel for Respondent.—Original.

ORDER (DATED MARCH 12, 1918) GRANTING MOTION TO STRIKE OUT CERTAIN PORTIONS OF THE ANSWER OF RESPONDENT.

UNITED STATES OF AMERICA,
BEFORE FEDERAL TRADE COMMISSION, } *ss.:*

---

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 12th day of March, A. D., 1918.

---

Present:

WILLIAM J. HARRIS, *Chairman*,
JOSEPH E. DAVIES,
WILLIAM B. COLVER,
J. FRANKLIN FORT,
VICTOR MURDOCK,
} *Commissioners.*

---

*Federal Trade Commission*
v.
*Curtis Publishing Company.*
} Docket No. 15.

---

The above entitled proceeding coming on for hearing, upon the motion of Counsel for the Commission, made before the taking of testimony herein began, to strike from the answer of the respondent the following matter to wit:

"FOR FURTHER ANSWER to the complaint herein, the respondent alleges as follows:

"That the complaint herein was issued as the result of an application to the Federal Trade Commission by The Pictorial Review Company, a corporation organized and existing under and by virtue of the laws of the State of New York, having its principal office and

place of business in the City of New York, and which is now and has been for some time past, engaged in the publication, sale and circulation of a periodical known as the 'Pictorial Review.'

"That the respondent, early in April, 1917, was informed by the Federal Trade Commission, that complaint had been made by the Pictorial Review Company with respect to its said contract with its district-agents hereinbefore in this answer referred to, and that on April 10th and April 30th and May 15th, 1917, the respondent appeared before this Commission and explained its method of carrying on its said business under its said district-agency agreement and through its said organization of district-agents and boy distributors.

"That thereafter, and while the said matter was still pending and was receiving the consideration of this Commission, and before the issuing of the complaint herein, The Pictorial Review Company, on May 1, 1917, commenced a suit in equity in the United States District Court for the Southern District of New York by the service of a summons and verified bill of complaint, a copy of which is hereto annexed, together with a copy of the respondent's answer thereto in said suit, and marked respectively Exhibits C and D, and at the same time said Pictorial Review Company moved for a preliminary injunction restraining the respondent from continuing to use and from enforcing the existing district-agency agreement hereinbefore referred to and annexed as Exhibit A, and directing the respondent to cancel the same; that it will appear from the pleadings annexed hereto as Exhibits C and D that the issues involved in said suit in equity are similar to the issues raised by the complaint and answer in this proceeding.

"That upon the hearing of the said motion for a

preliminary injunction in said suit on May 31st, 1917, the said Pictorial Review Company submitted to the court voluminous affidavits setting forth in detail the facts on which the said application was based and in support thereof, and the respondent submitted full affidavits in detail setting forth the facts in opposition to said application by which said affidavits of the parties a full and detailed statement of the facts involved was presented to the court, and in addition thereto the matter was duly argued at length before Hon. Augustus N. Hand, Judge of said United States District Court sitting in equity on said May 1st, 1917. That thereafter on June 26th, 1917, the said Judge, after full consideration of all the facts submitted by the parties as aforesaid, rendered an opinion, a copy of which is hereto annexed and marked Exhibit D, and thereupon an order was duly entered denying the plaintiff's application for a preliminary injunction in said suit. That said suit in equity is now pending and awaiting trial in the United States District Court for the Southern District of New York, and will, as respondent is informed and believes, be reached for trial during the early fall of 1917, at which time the parties thereto will be called upon and will have an opportunity to adduce all of their proofs in support of their respective claims, and the issues in said suit will be submitted to said court for final determination."

for the reason that the matter therein alleged neither admits nor denies nor explains any of the facts alleged in the complaint, and presents a matter foreign to the issues in said proceedings, and that the matter therein alleged is not in compliance with Rule III of the Rules of Practice before the Commission, adopted by it on June 17, 1915.

And, after hearing John Walsh, Chief Counsel for the Commission, in support of said motion, and Joseph W. Welch, counsel for respondent, in opposition thereto, and being advised in the premises:

It Is Ordered that said motion be, and the same hereby is, granted, and that said matter be stricken out of the answer of the respondent.

By order of the Commission.

(Signed) L. L. BRACKEN,
*Secretary.*

(Seal)

AMENDED RESOLUTION—DATED APRIL 8, 1918.

UNITED STATES OF AMERICA,
BEFORE FEDERAL TRADE COMMISSION, } *ss.:*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of April, A. D. 1918.

Present:

WILLIAM J. HARRIS, *Chairman*,
WILLIAM B. COLVER,
JOHN FRANKLIN FORT,
VICTOR MURDOCK,
} *Commissioners.*

*Federal Trade Commission*
v.
*Curtis Publishing Company.*
} Docket No. 15 (Amended).

WHEREAS: The Federal Trade Commission did, on the 5th day of July, A. D. 1917, issue its complaint in the above entitled proceeding; and

WHEREAS: The Federal Trade Commission has reason to believe that said Curtis Publishing Company is now using other unfair methods of competition in commerce than are charged in said complaint, and that said original complaint should be amended in some particulars;

THEREFORE, BE IT RESOLVED: That the Commission issue and serve upon said Curtis Publishing Company, its amended complaint stating all of its charges in that respect in substantially the form hereunto annexed.

Adopted by the Commission.

(Signed) L. L. BRACKEN,
(Seal) *Secretary.*

Dated this 8th day of April, A. D. 1918.

(Signed) JOHN WALSH,
*Chief Counsel.*

## AMENDED COMPLAINT—DATED APRIL 8, 1918.

UNITED STATES OF AMERICA,
BEFORE FEDERAL TRADE COMMISSION, } *ss.:*

---

At a regular meeting of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 8th day of April, A. D. 1918.

---

Present:

WILLIAM J. HARRIS, *Chairman*,
WILLIAM B. COLVER,
JOHN FRANKLIN FORT,
VICTOR MURDOCK, } *Commissioners.*

---

*Federal Trade Commission*
v.
*The Curtis Publishing Co.*

Docket No. 15 (Amended).

Complaint in the matter of the alleged violation of Section 5 of an Act of Congress approved September 26, 1914, and of alleged violation of Section 3 of the Act of Congress Approved October 15, 1914.

---

The Federal Trade Commission, having reason to believe from a preliminary investigation made by it, that the Curtis Publishing Company, hereinafter referred to as respondent, has been, and is, using unfair methods of competition in interstate commerce in violation of Section 5 of the Act of Congress approved September 26, 1914, entitled, "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and it appearing that a proceeding by it in respect thereof would be to the interest

of the public, issues this complaint, stating its charges in that respect on information and belief as follows:

PARAGRAPH ONE: That the respondent, the Curtis Publishing Company, is a corporation organized and existing under and by virtue of the laws of the State of Pennsylvania, having its principal office and place of business in the City of Philadelphia, in said State, and is now and was, at all the times hereinafter mentioned, and for many months prior thereto, engaged in the publication, sale and circulation of weekly and monthly periodicals, in commerce among the several States and Territories of the United States and the District of Columbia.

PARAGRAPH TWO: That with the intent, purpose and effect of stifling and suppressing competition in interstate commerce in the publication, sale and circulation of such periodicals, the respondent now refuses, and for several months last past has refused, to sell its periodicals and publications to any dealer who will not agree with the respondent that he will not sell or distribute the periodicals and publications of certain of the competitors of the respondent, to other dealers or distributors.

PARAGRAPH THREE: That with the intent, purpose and effect of stifling and suppressing competition in interstate commerce in the publication, sale and circulation of weekly and monthly periodicals, the respondent is making, and for several months last past has made, contracts with numerous wholesale distributors of periodicals, wherein and whereby said distributors are required to agree to handle and distribute the periodicals of the respondent as agent of such respondent, and also are required to agree therein not to handle or distribute the periodicals or magazines of any other publisher without the permission of the respondent;

that a large percentage of such wholesale distributors were formerly under a sales contract with respondent, the terms of which are practically similar to those incorporated in said contract of agency; that the wholesale distributors who have made such contracts with respondent are the principal and most efficient, and in many cases the only, medium for the proper distribution of weekly and monthly periodicals in the various localities throughout the United States.

II.

The Federal Trade Commission, having reason to believe from a preliminary investigation made by it, that the Curtis Publishing Company hereinafter referred to as respondent, has violated, and is violating, the provisions of Section 3 of the Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," issues this complaint, stating its charges in that respect on information and belief as follows:

PARAGRAPH ONE: That the respondent, the Curtis Publishing Company, is a corporation organized and existing under and by virtue of the laws of the State of Pennsylvania, having its principal office and place of business in the City of Philadelphia, in said State, and is now and was, at all times hereinafter mentioned, and for many months prior thereto, engaged in the publication, sale and circulation of weekly and monthly periodicals, in commerce among the several States and Territories of the United States and the District of Columbia.

PARAGRAPH TWO: That the respondent, the Curtis Publishing Company, for several months last past, in the course of interstate commerce, has sold and made contracts for sale, and is now selling and making contracts for sale, of large supplies of its publications and

periodicals for use and resale within the United States and the Territories thereof and the District of Columbia, and has fixed, and is now fixing, the price charged therefor on the condition, agreement or understanding that the purchasers thereof shall not use or deal in the publications or periodicals of a competitor or competitors of respondent, and that the effect of such sales and contracts for sale, or such conditions, agreements or understandings, may be and is to substantially lessen competition and to tend to create a monopoly.

THEREFORE, NOTICE IS HEREBY GIVEN YOU, the said the Curtis Publishing Company, that the charges of this complaint will be heard by the Federal Trade Commission at its office in the Federal Trade Commission Building, in the City of Washington, D. C., on the 16th day of April, A. D. 1918, at 10.30 o'clock in the forenoon of said day, or as soon thereafter as the same may be reached, at which time and place you shall have the right to appear and show cause why an order should not be entered by the Federal Trade Commission requiring you to cease and desist from the violations of law charged in this complaint.

And you will further take notice that within thirty (30) days after service of this complaint you are required to file with the Commission an answer in conformity with Rule III of the Rules of Practice before the Commission.

IN WITNESS WHEREOF, The Federal Trade Commission has caused this complaint to be issued, signed by its Secretary, and its official seal to be affixed hereto at the City of Washington, D. C., this 8th day of April, A. D. 1918.

By THE COMMISSION,
(Signed) LEONIDAS L. BRACKEN,
*Secretary.*

(Seal)
(Signed) JOHN WALSH,
*Chief Counsel.*

## AMENDED ANSWER OF RESPONDENT—WITH EXHIBITS—FILED MAY 10, 1919.

UNITED STATES OF AMERICA,
BEFORE FEDERAL TRADE COMMISSION, } *ss.:*

*Federal Trade Commission*
v.
*The Curtis Publishing Company.*
Docket No. 15.

The Curtis Publishing Company, the respondent above named, answers the Amended Complaint of the Federal Trade Commission in the matter of an alleged violation of Section 5 of the Act of Congress approved September 26, 1914, and of an alleged violation of Section 3 of the Act of Congress approved October 15, 1914, as follows:

PARAGRAPH ONE: The respondent admits each of the allegations contained in PARAGRAPH ONE of subdivision I of the Amended Complaint herein.

PARAGRAPH TWO: The respondent denies each and every allegation contained in PARAGRAPH Two of subdivision I of the amended Complaint herein and alleges that the respondent has for many years past, in addition to the distribution of its said publications through private subscription, distributed its said publications almost exclusively through the medium of an organization, hereinafter in this answer more specifically described, created and maintained by the respondent for the distribution and sale of its said publications, which organization consists of numerous district-agents employed by it in various cities and towns throughout the United States and a large force of boys who are under the supervision and direction of such district-agents, and through which organization it has

for many years sold and distributed its various publications to the public, using in addition thereto to a very limited extent, the services of the American News Company, and that respondent does not and has not for many years past sold its said publications to dealers generally, for sale or distribution by them to others; that in supplying its said district-agents with its various publications for distribution and sale through and by means of said organization, it entered into a contract with its said district-agents in the form hereto annexed and marked Exhibit A, which said contract was designed and intended to govern the relations between the respondent, as principal, and its said district agents, as agents, and which has continued in existence between the parties, except as hereinafter stated in Paragraph Three hereof; and the respondent further alleges that it has given its approval, in some instances, in accordance with the terms of the contract referred to as Exhibit A, of the sale and distribution by such agents at wholesale of periodicals and publications other than those of respondent, to dealers or distributors, and that in other instances the respondent's approval has been refused, such refusal by the respondent being based either upon the fact that the said agents were not in a position to handle additional business or upon the fact that to approve of such agents handling the publications of others would place at the disposal of such other persons for the distribution of their publications, to the injury of the respondent and its business, the organization of district-agents and boys originated, created and maintained by the respondent at large expense for its own use and benefit. That in entering into said contracts with its said agents and in refusing to give its approval, in certain instances, to its said agents to handle other periodicals and publications, it has been and is the purpose and intention of the respondent only to preserve to itself

the benefits of the said organization created many years ago and since maintained by it at great expense and not in any way to curtail, limit or impair the free sale and distribution of the periodicals and publications of others; and the respondent further alleges that the other publishers of periodicals and magazines have and for many years past have had ample and efficient means of distributing and selling their periodicals and publications to and among the retail dealers in the cities and towns of the United States without using or encroaching upon the said organization created and maintained by the respondent; and that the retail dealers in magazines and periodicals in the various cities and towns of the United States have ample sources of supply of magazines and periodicals and efficient means of obtaining the same other than through the respondent's said organization, and have at all times been able to obtain such magazines and periodicals as they desire to handle, including those of any of the so-called competitors of the respondent, from other sources than through the said organization of the respondent.

PARAGRAPH THREE: The respondent denies each and every allegation contained in Paragraph Three of sub-division I of the Amended Complaint herein, except that it admits and alleges that since the commencement of this proceeding, the respondent has entered into a contract with the majority of its said district-agents, hereinbefore in Paragraph Two referred to and described, in the form hereto annexed and marked Exhibit B, in order to more precisely describe the real relation existing between the respondent and its said agents and to obviate the possibility of any misunderstanding as to the character of that relationship that might arise by reason of any misconstruction of the contract hereinbefore referred to as Exhibit A; and

that the purpose, object and intent of the respondent with respect to said contract marked Exhibit B are the same as set forth in Paragraph Two herein, to which reference is hereby made.

II.

PARAGRAPH ONE: The respondent admits each of the allegations contained in PARAGRAPH ONE of subdivision II of the Amended Complaint herein.

PARAGRAPH TWO: The respondent denies each and every allegation contained in PARAGRAPH TWO of subdivision II of the Amended Complaint herein, and respondent alleges that it is the owner and publisher of the periodicals known as "The Saturday Evening Post," "The Ladies Home Journal" and "The Country Gentleman," having acquired the latter periodical in 1911; that prior to the year 1899 the respondent distributed its two first named publications to the public direct by mail to subscribers and also through the agency of the American News Company, a corporation engaged in furnishing various periodicals to the different newsstand dealers throughout the country for sale and distribution by them to the general public. That in the year 1899, for the purpose of providing a more efficient means of distributing its publications, the respondent devised the scheme of selling the Saturday Evening Post direct to the public through the medium of a large number of boys locally employed throughout the country as agents in the distribution of the paper. This scheme was gradually extended to include all of the respondent's said publications and was developed by appointing various district-agents in the cities and towns of the United States for the purpose of supervising, teaching and directing the sales of said publications through and by the boy distributors. The first district-agents were so appointed by the respondent in

1902 and since that time the number has been increased as the necessity therefor required, until at the present time there are approximately 1532 such district-agents employed by the respondent, who, jointly with the said boy distributors, now numbering approximately 35,000, take care of the distribution and sale of the said publications of the respondent to the public and to the various retail dealers in the various localities assigned to each agent; that this method of distribution as a whole comprises the joint activities of the said district-agents and the boy distributors and depends for its efficiency and operation upon their relationship to each other and to the respondent; that the relation between the respondent and its said district-agents is and always has been one of agency and has been and is covered by the said district-agency agreements existing as hereinbefore in this answer set forth, which are and always have been in substance, operation and effect contracts of agency; that said district-agency agreements do not apply to or in any way affect the retail trade of the respondent's said agents in the sale and distribution of periodicals and magazines generally which they may desire to handle.

All of which matters and things in this answer this respondent is ready and willing to aver, maintain and prove, as this Honorable Commission shall direct, and prays that the said Amended Complaint be dismissed.

THE CURTIS PUBLISHING COMPANY,
By C. H. LUDINGTON,
*Vice-President.*

CARTER, LEDYARD & MILBURN,
*Attorneys for Curtis Publishing Company.*

EXHIBIT "A."

DISTRICT AGENCY AGREEMENT.

Form JDA3-a

WHAT THE PUBLISHERS WILL DO

WITNESSETH, that the Publishers hereby covenant and agree:

*Territory*

1. To appoint the said Party of the Second Part as District Agent for THE SATURDAY EVENING POST, THE LADIES' HOME JOURNAL and THE COUNTRY GENTLEMAN, in and for the City of ....., State of ....., for the period hereinafter described, to commence either with THE SATURDAY EVENING POST and THE COUNTRY GENTLEMAN dated ....., 19.., and with THE LADIES' HOME JOURNAL for the month of....., 19.., or with later issues, at the option of the Publishers (this contract must be accompanied by one of the Company's order blanks stating the number of copies desired of each of these issues);

*Rates*

2. To supply the District Agent with copies of THE SATURDAY EVENING POST and of THE COUNTRY GENTLEMAN at two and one-half cents (2½c.) each, and of THE LADIES' HOME JOURNAL at nine and three-quarters cents (9¾c.) each, transportation charges prepaid, provided that if the District Agent fail to prove himself entitled to the

wholesale rates by wholesaling each publication to sub-agents, and by sending on time, the required fully itemized, sub-agents' sales reports, or if the District Agent fail to maintain a net sale of his quota of *any one* publication, as required by Clause 8, the Publishers may then charge three cents a copy for THE SATURDAY EVENING POST and for THE COUNTRY GENTLEMAN and eleven cents a copy for THE LADIES' HOME JOURNAL, or may, at their option, terminate the contract after thirty days' notice and appropriate the cash security;

*Returns*

3. To give credit to the District Agent, at the price paid, for unsold copies returned *in accordance with the regulations governing returns, as stated on the order-blanks last issued by the Company;*

*Shipments*

4. Of each publication to forward by mail, express or freight, at the option of the Publishers, copies ordered in advance, as hereinafter provided, at a time intended to secure delivery to the District Agent one day before the sale date, *provided that the District Agent complies with Clause 10;*

*Interest*

5. To pay the District Agent interest at five per cent per annum upon the amount of the cash security remitted by him, as shown by Clause 16;

*Cash Refund*

6. To credit to the account of or to return to the District Agent after his fulfillment of his obligations under this agreement (of which the notice on the reverse side is a part), his cash security; provided, that if the District Agent should fail to do as agreed, then his cash security with any accumulated interest may be appropriated by the Publishers without notice.

WHAT THE DISTRICT AGENT WILL DO

WITNESSETH, that the District Agent hereby covenants and agrees:

*Prepayment*

7. To remit *in advance,* either according to the schedule on the printed order-blanks or by deposits sufficient to prepay for a months' supplies, and he hereby deposits with the Publishers $.....as the first advance payment;

*Net Sales*

8. To sell at least.....copies of each issue of THE SATURDAY EVENING POST, at least .....copies of each issue of THE LADIES' HOME JOURNAL, and at least.....copies of each issue of THE COUNTRY GENTLEMAN;

*Sub-Agents*

9. To supply sub-agents, both boys and dealers, with THE SATURDAY EVENING POST and THE COUNTRY GENTLEMAN *at* THREE CENTS a copy for re-sale at FIVE CENTS a copy, and with THE LADIES' HOME JOURNAL *at* ELEV-

EN CENTS a copy for re-sale at FIFTEEN CENTS a copy, and to make deliveries early on the morning of the sale date;

*Premature Sales* 10. To refrain from displaying, delivering or selling any copies to boys, dealers or retail customers BEFORE the authorized sale date, as specified on the printed order-blank furnished by the Publishers;

*Trespassing* 11. To refrain from selling any copies in any territory known to be controlled by another agent-under-contract;

*Imprints* 12. To prevent any firm or person from stamping or pasting any advertising notice upon any page of the District Agent's copies and from enclosing any advertising circular therein, provided that the District Agent or any sub-agent may stamp his name *as agent for,* or insert circulars *intended solely to increase the sales of the Curtis Publications;*

*Other Periodicals* 13. To refrain hereafter from wholesaling to boys or dealers (and from attempting to influence any Curtis agent to sell) any periodicals other than those published by The Curtis Publishing Company, and to refrain from furnishing any other publisher or his agent with the names and addresses of any Curtis agents, *without first obtaining the approval of the Publishers;*

*Reports* 14. To send to the Home Office,

on blanks furnished by the Publishers, not later than directed by the report blanks, reports itemizing the number of copies of each publication sold by each boy, dealer or other sub-agent, or sold at retail by the District Agent or his employees, and to distribute Prize Vouchers regularly to sub-agents, according to instructions from the Publishers, provided that Prize Vouchers shall be given to sub-agents only and are not redeemable by the District Agent nor by his relatives or salaried employees;

*Telegrams*

15. To pay any collect charge, not exceeding that for a ten-word telegram, from the Publishers concerning any remittance not received by the Publishers, and more than two days late from the District Agent; and to send "collect" to the Publishers a code telegram of a length not exceeding ten words to trace any shipment of 100 or more copies not received *on or before the last day train on the sale date* FROM A FULLY PREPAID ORDER BY THE DISTRICT AGENT.

*Cash Security*

16. To permit the Publishers to retain, throughout the life of this agreement, possession of the $.... herewith remitted by the District Agent as cash security for his performance of his several obligations hereunder.

How This Agreement May Be Terminated

Witnesseth, that it is further agreed and understood by and between the Publishers and the District Agent:

*Termination*

17. That this contract shall continue in full force and effect on the above terms for at least one year following the date of ratification;

*By Agent*

18. That the District Agent may withdraw from this contract either at the end of or within the year, and secure the return of his cash security with interest by doing ALL of these things: (a) By giving the Publishers THIRTY DAYS' NOTICE of his intention to withdraw; (b) by obtaining a successor satisfactory to the Publishers; (c) by obtaining and forwarding to the Publishers the successor's signed contract, deposit and security; and (d) by giving all his right, title, interest and goodwill in the Curtis agency to the successor, including a written agreement to buy from the successor all copies the District Agent may thereafter order;

*By Publishers*

19. That the Publishers may terminate this contract *without notice*, in case of strike, fire, flood, earthquake, change in the postal rate or in the retail price of any one of the three publications; or may at any time terminate it by giving *at least thirty days' notice before cutting off supplies* and by returning the

security with interest; or may cancel the contract and appropriate the cash security should the District Agent fail either to sell the quota number given in Clause 8, for any one of the three publications, or fail in any other particular to do as herein agreed;

*Holding Over*

20. That if the Publishers send and the District Agent accepts, copies of one of the three publications of an issue later than the last within the *first* year of this agreement, *then it shall continue in full force and effect for the* SECOND *year,* upon the same terms and with the same withdrawal conditions as for the *first* year, and in in the event of holding over for a *third* year, or longer, either may withdraw during or after the third year according to conditions in Clauses 18 and 19, respectively.

IN WITNESS WHEREOF, the Parties to these Presents have hereunto set their hands.

1. THE CURTIS PUBLISHING COMPANY (the Publishers),
*by*.....(*Representative*)
2.....(*District Agent*)
.....(*Street*)

| Names | WITNESSES | Street Addresses |
|---|---|---|
| 1..... | | ..... |
| 2..... | | ..... |

NOTICE—If the intending agent is a minor, the signature of his parent or guardian must appear as District Agent.

NOTICE TO THE INTENDING DISTRICT AGENT.

A sound business policy requires that we agree in advance upon terms to which each of us shall adhere.

Before you sign as our representative you are strongly urged to read and to have a thorough understanding of each clause of this contract and of each requirement on the printed order-blanks in use by the Company.

No other than an officer of the Company is empowered to modify or alter in any detail the terms of either this contract or the Company's order-blank. No branch manager, no traveling representative or other field worker has such authority. It is understood that your acceptance of this contract is given only in consideration of the privileges detailed in the contract, not because of any additional verbal or other promises made by any person whomsoever.

Before you sign, understand that this contract places upon us no obligation to divert to you the orders of any dealers who may now be obtaining copies of the Curtis publications from the American News Company, or any of its Branches; nor of any agents of the Home Pattern Company, or of certain Railway News Companies who may now be obtaining copies directly from our Home Office; nor does the contract contemplate our terminating the activities of any subscription representative who may now be soliciting or who may hereafter solicit in your city.

This contract is offered to you by the Publishers only because they believe Y-O-U are the right man for the place. It is understood that by accepting the contract you signify your intention of devoting your own time and personal attention to the management of the agency and that you will not lease or sub-let to another or transfer the management of the agency to another in any way except as stipulated in the contract. Our

ratification of the proposed contract will not make the agency yours to barter and sell without our sanction. Our ratification of the proposed agreement will give you only the rights specified in the contract—no more.

This contract will become binding upon the Publishers when received and ratified by the Home Office, not before.

THE CURTIS PUBLISHING COMPANY
Sales Division, Circulation Department
5713B PHILADELPHIA, PENNSYLVANIA S140

---

Endorsed: ARTICLES OF AGREEMENT, Made this..... day of....., 19.., between THE CURTIS PUBLISHING COMPANY, Philadelphia, Pennsylvania, Party of the First Part, hereinafter referred to as the Publishers, and..... City..... State ....., Party of the Second Part, hereinafter referred to as the District Agent.

---

## EXHIBIT "B."

---

## DISTRICT AGENCY AGREEMENT.

**Form JDA8.**

AGREEMENT, dated ....., 19..., between The Curtis Publishing Company (hereinafter called the Publisher) and.....(hereinafter called the District Agent).

WITNESSETH, That the District Agent is hereby appointed agent for the sale of the following publica-

tions of the Publisher, viz.: THE LADIES HOME JOURNAL, THE SATURDAY EVENING POST and THE COUNTRY GENTLEMAN for the following territory, viz.:

*Territory*

upon the following terms and conditions:

*Consignments*

1. Commencing with the issues of THE SATURDAY EVENING POST and THE COUNTRY GENTLEMAN dated ..... and with THE LADIES' HOME JOURNAL for the month of ....., or with later issues at the Publisher's option, the Publisher will supply and consign to the agent such stock of the above publications as the Publisher finds the District Agent requires from time to time, provided the requisitions therefor are sent by the District Agent according to the schedule issued by the Publisher, at times sufficiently in advance of publication to effect the proper delivery thereof, and provided such requisitions specifying the desired number of copies of each publication, are sent upon the printed requisition blanks of the Publisher, and provided the District Agent has faithfully and punctually kept, up to the time of each requisition, the terms and conditions of this agreement. The title of said publications shall remain with the Publisher until they are sold by the District Agent. The said publications are to be forwarded by the Publisher to the District

Agent (transportation charges prepaid) by mail, express or freight, at the option of the publisher, at times intended to effect delivery to the District Agent one day before the authorized publication dates as fixed from time to time by the Publisher.

*Selling Prices*

2. The District Agent will supply to boys and dealers copies of THE SATURDAY EVENING POST and of THE COUNTRY GENTLEMAN at the net wholesale rate of three cents (3c.) a copy for sale at five cents (5c.) a copy, and copies of THE LADIES' HOME JOURNAL at eleven cents (11c.) a copy for sale at fifteen cents (15c.) a copy, and will make deliveries of each of the said publications early on the morning of the authorized publication day thereof. All retail sales made by the District Agent shall be only at the prices of five cents (5c.) a copy for THE SATURDAY EVENING POST and for THE COUNTRY GENTLEMAN, and fifteen cents (15c.) a copy for THE LADIES' HOME JOURNAL. All sales must be for cash or at the risk of the District Agent.

*Sales Promotion*

3. The District Agent agrees that he will at his own expense provide a suitable place and appliances for the sale and the distribution of the said publications; that he will use all reasonable efforts and devote the necessary time for promoting the sale of said publications and supplying

*Premature Sales*

the demand therefor; that *without the written consent of the Publisher* he will not display, deliver or sell any copies of any one of said publications before the authorized publication date as specified in the printed requisition blanks, or dispose of any copies

*Trespassing*

of said publications in the territory of any other District Agent or Special Agent of the Publisher, or act as

*Other Periodicals*

agent for or supply at wholesale rates any periodicals other than those published by the Publisher, or directly or indirectly furnish to any other publisher or agent the names and addresses of the persons to whom the

*Imprints*

Publisher's publications are sold or delivered, or allow any one to stamp, paste or otherwise place on or in any of the Publisher's publications or any part thereof any advertising matter, except that he may stamp his name as

*Inserts*

agent thereon and may insert circulars intended solely to increase the single-copy sale of the said publications.

*Training Boys*

4. The District Agent shall, subject to the direction and the control of the Publisher, train, instruct and supervise such adequate force of boys within his district as has been or shall be organized by or under the instructions of the Publisher for the purpose of distributing the said publications.

*Commissions*

5. The Publisher will allow the District Agent as compensation the following commissions:

(*a*) On copies supplied to boys and dealers at the rates hereinbefore specified, a commission of one-half cent (½c.) on each copy of THE SATURDAY EVENING POST and one and one-quarter cents (1¼c.) on each copy of THE LADIES' HOME JOURNAL, and on each copy of THE COUNTRY GENTLEMAN until June 29, 1918, one cent (1c.)—thereafter one-half cent (½c.).

(*b*) On sales made at retail, a commission of two and one-half cents (2½c.) on each copy of THE SATURDAY EVENING POST and five and one-quarter cents (5¼c.) on each copy of THE LADIES' HOME JOURNAL and on each copy of THE COUNTRY GENTLEMAN until June 29, 1918, three cents (3c.)—thereafter, two and one-half cents (2½c.); provided that said commissions shall be deemed earned and payable only as to such copies as to which punctual and accurate reports are made by him in accordance with this agreement.

*Returns*

6. The District Agent will return to the Publisher the cover pages or headings of all unsold copies of said publications, as a voucher that said copies remain unsold, and all copies of which such returns shall not have been delivered to the Publisher within *twenty-one* days in the case of THE SATURDAY EVENING POST and of THE COUNTRY GENTLEMAN and within *fifty* days in the case of THE LADIES' HOME JOURNAL, counting from the authorized publication dates, shall be conclusively presumed to have been sold by the District Agent and on that basis shall be separately accounted for not later than the last of the said *twenty-one* days or *fifty* days, respectively.

*Lost Copies*

In case of loss (not including loss by theft) of any copies without negligence on the part of the District Agent or his employees, the District Agent may forward to the Publisher proof of such loss by affidavits setting forth in detail the circumstances and mailed to the Publisher within said twenty-one days or fifty days from the authorized publication dates, and if such proof is satisfactory to the Publisher such lost copies shall be treated as returned unsold copies.

*Copy Requisitions*

7. The District Agent agrees to mail his requisitions weekly and to send with each requisition except the first, and upon blanks furnished by the Publisher, a report itemizing by

names and addresses of retailers both the number of copies of each publication in the consignments previously sold by the District Agent either directly at retail or to boys and dealers,

*Sales Reports*

and the number of copies unsold, together with a check or money order for the amount of such sales *less his commissions,* and for anything due

*Settlements*

on any separate accounting for copies not reported as sold or returned but as to which no unsold copies, cover pages or headings shall have been returned within the time limited in Paragraph 6 hereof. The District Agent shall not be entitled to credit for returns before their receipt by the Publisher unless after authorization as lost copies. Within a week after the authorized publication dates of the publications included in the final requisition sent under this agreement, the District Agent shall send a similar report of the sales of the publications included in said requisition with a check or money order for the amount thereof

*Prize Vouchers*

*less commissions.* And the District Agent agrees to distribute prize vouchers to boys and dealers according to instructions from the Publisher, provided that prize vouchers shall not be redeemable by the District Agent nor by his relatives or salaried employees.

*Telegrams*

8. The District Agent agrees to pay any collect charges for a telegram not exceeding ten words from the Publisher concerning any settlement more than a day overdue, and to send collect to the Publisher a telegram of a length not exceeding ten words to trace any consignment of *one hundred* or more copies not received on or before the first day train on the authorized publication date, provided the District Agent has fully complied with the conditions of this agreement.

*Net Sales*

9. The District Agent guarantees that during the continuance of this agreement he will sell at least ..... copies of each issue of THE SATURDAY EVENING POST, at least ..... copies of each issue of THE LADIES' HOME JOURNAL and at least ..... copies of each issue of THE COUNTRY GENTLEMAN.

*Termination*

10. This agreement shall not become binding on the Publisher until the Publisher has ratified it in writing at the Home Office in Philadelphia. It shall be for the term of ..... ..... from the date of such ratification unless otherwise terminated under its provisions and shall continue thereafter from year to year unless otherwise so terminated. Unless either party gives to the other thirty days' notice prior to the termination of the .....

or any subsequent year, the agreement shall continue for another year, and so on from year to year.

*By the Publisher*

11. In case of war, embargo, strike, fire, flood, earthquake, change in the postal rates or in the retail price of any one of the said publications or in case of breach by the District Agent of any of his obligations or guarantees hereunder, the Publisher may terminate without notice. The Publisher may. also terminate on thirty days' previous notice given to the District Agent.

*By the Agent*

12. The District Agent may terminate at any time by giving thirty days' notice by mail to the Publisher prior to such termination, provided he obtains a successor satisfactory to the Publisher and forwards the successor's acceptance of an agreement in form similar to this agreement, together with such successor's cash security, and provided further that the District Agent will give to such successor a written agreement not to deal at wholesale in any of the said three publications in said agency territory for a period of thirty days from the date of ratification of such transfer of the agency.

*Cash Security*

13. In consideration of this agreement of employment the District Agent will deposit with the Publisher on or before the date of his first requisition hereunder, the sum of $.....

*Interest*

On said sum, until the termination of the agency, the Publisher shall allow and pay the District Agent annual interest at the rate of five per cent. per annum. At the termination of the agency, if the District Agent shall have faithfully performed all the conditions, stipulations and guarantees of this agreement, the Publisher will return to him said sum with all unpaid interest thereon. If the District Agent shall not have kept all the several conditions, stipulations and guarantees by him to be performed, this sum may be retained by the Publisher as liquidated damages, but its retention shall not deprive the Publisher of any other remedy for such breach. Failure of the Publisher to enforce any rights in case of one or more defaults of the District Agent shall not be a waiver of such rights or of any subsequent defaults.

EXECUTED by the Parties hereto the year first above written.

THE CURTIS PUBLISHING COMPANY.

.....
(By Representative)

..... .....
(The District Agent) (Street Address)

Note: If the intending agent is a minor, a parent or guardian must sign as District Agent.

8750B

NOTICE TO THE INTENDING DISTRICT AGENT.

A sound business policy requires that we agree in advance upon terms to which each of us shall adhere.

Before you sign as our agent you are strongly urged to obtain a thorough understanding of each clause of this agreement, and of the mailing schedule and of the printed Requisition and Settlement Blanks of the Publisher.

No other than an officer of the Publisher is empowered to modify or alter in any detail the terms of either this agreement or the Publisher's Requisition and Settlement Blank. No Branch Manager, Traveling Representative or other field worker has such authority. It is understood that your acceptance of this agreement is given only in consideration of the commissions and the privileges detailed in the agreement, not because of any additional verbal or other promises made by any persons whomsoever.

Before you sign, understand that this agreement places upon us no obligation to divert to you the orders of any dealers who may prefer to obtain copies of the Curtis Publications from the American News Company or any one of its branches, nor of certain Railway News Companies who may now be obtaining copies directly from our Home Office or one of our Branch Offices, and that this agreement does not contemplate our terminating the activities of any subscription representative who may now be soliciting or who may hereafter solicit in your city.

This agreement is offered to you by us only because we believe YOU are qualified to act as agent for the territory. It is understood that by accepting the agreement you signify your intention of devoting your own time and personal attention to the conduct of the agency and that you will not lease, sub-let or transfer the management of the agency to another in any way

except as stipulated in the agreement. Our ratification of the proposed agreement will not authorize you to barter or sell the agency; it will give you only the rights specified in the agreement—no more.

The agreement will become binding upon us when received and ratified in writing at our Home Office—not before.

THE CURTIS PUBLISHING COMPANY
Sales Division, Circulation Department
PHILADELPHIA, PENNSYLVANIA

---

Endorsed:

DISTRICT AGENCY AGREEMENT
Form JDA8.

..... By.....
Name of Agent Agent's Representative

Territory ..... Street .....
City ..... State .....
Date of Ratification .....
By .....
Publisher's Representative.

## NOTICE (DATED JANUARY 6, 1919) THAT COMMISSION WILL ENTERTAIN BRIEFS AND ARGUMENT ON CERTAIN POINTS RAISED BY THE PLEADINGS AND EVIDENCE IN THIS CASE.

UNITED STATES OF AMERICA,
BEFORE FEDERAL TRADE COMMISSION, } *ss.:*

---

*Federal Trade Commission*
v.
*Curtis Publishing Company,* } Docket No. 15.

---

Gentlemen:

You will please take notice that on January 29, 1919, at two-thirty o'clock in the afternoon of that day, the Commission will entertain briefs and argument on the following points raised by the pleadings and evidence in this cause, to wit:

(1) Whether or not the evidence shows that respondent refuses to sell its periodicals and publications to any dealer who will not agree with the respondent that he will not sell or distribute the periodicals and publications of certain of the competitors of the respondent, to other dealers or distributors.

(2) Whether or not the evidence shows that respondent with the intent, purpose and effect of stifling and suppressing competition in interstate commerce in the publication, sale and circulation of weekly and monthly periodicals, has made, and is making, so-called agency contracts with numerous wholesale distributors of periodicals, wherein and whereby said distributors agree to handle and distribute the periodicals of the respondent as agent of the respondent, and not to

handle or distribute the periodicals or magazines of any other publisher without the permission of the respondent.

(3) Whether or not the evidence shows that the respondent, in the course of interstate commerce, has sold and made contracts for sale, and is now selling and making contracts for sale, of large supplies of its publications and periodicals, for use and resale within the United States and the Territories thereof and the District of Columbia, and has fixed, and is now fixing, the price charged therefor on the condition, agreement or understanding that the purchasers thereof shall not use or deal in the publications or periodicals of a competitor or competitors of the respondent, and that the effect of such sales and contracts for sale, or such conditions, agreements or understandings, may be and is to substantially lessen competition and tend to create a monopoly.

Dated: January 6, 1919.

Very truly yours,
FEDERAL TRADE COMMISSION,
(Signed) JOHN WALSH,
*Chief Counsel.*

To Carter, Ledyard & Millburn,
Attorneys for the Curtis Publishing Co., respondent.

---

Due and legal service of the within notice is hereby acknowledged this 8th day of January, 1919.

(Signed) CARTER, LEDYARD & MILLBURN,
*Attorneys for Curtis Publishing Co., Respondent.*

## COMMISSION'S REPORT, CONTAINING FINDINGS AS TO THE FACTS AND CONCLUSIONS—DATED JULY 21, 1919.

UNITED STATES OF AMERICA,
BEFORE FEDERAL TRADE COMMISSION, } *ss.:*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 21st day of July, A. D. 1919.

Present:

JOHN FRANKLIN FORT, *Chairman,*
VICTOR MURDOCK,
HUSTON THOMPSON,
WILLIAM B. COLVER, } *Commissioners.*

*Federal Trade Commission*
v.
*Curtis Publishing Company.* } Docket No 15.

## REPORT, FINDINGS AS TO THE FACTS, AND CONCLUSIONS.

A complaint having been issued by the Federal Trade Commission in the above-entitled proceeding, and the respondent therein named having filed its answer herein, and evidence having been adduced by the respective parties to said proceeding, and the Commission having considered the same, together with the written briefs and arguments and the oral arguments of the attorneys for the said parties, and the Commission being now fully advised in the premises, reports and finds as follows:

### FINDINGS AS TO THE FACTS.

PARAGRAPH ONE: That the respondent, Curtis Publishing Company, is a corporation organized and existing under and by virtue of the laws of the State of

Pennsylvania, having its principal office and place of business in the City of Philadelphia, State of Pennsylvania, and is now, and was at all times hereinafter mentioned, and for many months prior thereto, engaged in the publication, sale and distribution of weekly and monthly periodicals, in commerce among the several States and Territories of the United States and the District of Columbia.

PARAGRAPH TWO: That in the course of such commerce, the respondent has entered into contracts with certain persons, partnerships or corporations to sell or distribute its magazines, by the terms of which contracts such persons, partnerships or corporations, have agreed, among other things, not to "act as agent for or supply at wholesale rates any periodicals other than those published by the Publisher"—the respondent herein—without the written consent of such Publisher; that of such persons, partnerships or corporations, approximately four hundred forty-seven (447), hereinafter referred to as "dealers," are and previous to entering into such contracts with respondent were regularly engaged in the business of wholesale dealers in newspapers or magazines, or both, and as such are as aforesaid engaged in the sale or distribution of magazines, or newspapers, or both, of other publishers; that many of said four hundred forty-seven (447) dealers, and many others who have become such wholesale dealers since entering into such contracts, bound by said contract provision as aforesaid, have requested respondent's permission to engage also in the sale or distribution of certain publications competing in the course of said commerce, with those of respondent, which permission as to said competing publications has been uniformly denied by respondent; that in enforcing said contract provision as to said dealers, and in denying them said permission, respondent has prevented and now prevents certain of its competitors from util-

izing established channels for the general distribution or sale of magazines or newspapers, or both, of different and sundry publishers; that such established channels are in most instances the principal and most efficient, and in numerous cases, the only medium for the distribution of such publications in the various localities of the United States; that such method of competition so employed by respondent in the course of such commerce, as aforesaid, has proved and is unfair.

PARAGRAPH THREE: That in the course of such commerce, the respondent has made sales of its magazines to, or entered into contracts for the sale of the same with certain persons, partnerships or corporations, by the terms of which sales or contracts for such sales, such persons, partnerships or corporations have agreed, among other things, not to "act as agent for or supply at wholesale rates, any periodicals other than those published by the Publisher"—the respondent herein—without the written consent of such Publisher; that of such persons, partnerships or corporations, approximately four hundred forty-seven (447), hereinafter referred to as "dealers," are and, previous to entering into such contracts with respondent, were, regularly engaged in the business of wholesale dealers in newspapers or magazines, and as such are engaged in the sale or distribution of magazines or newspapers, or both, of other publishers; that many of said four hundred forty-seven (447) dealers, and many others who have become such wholesale dealers since entering into such contracts, bound by said contract provision hereinabove referred to, have requested respondent's permission to also engage in the sale or distribution of certain publications competing in the course of said commerce with those of respondent, which permission as to said competing publications has been uniformly denied; that in enforcing said contract

provision as to said dealers and in denying them said permission, respondent has prevented and now prevents, certain of its competitors from utilizing established channels for the general distribution or sale of magazines or newspapers, or both, of different and sundry publishers; that such established channels are in most instances the principal and most efficient, and, in numerous cases, the only medium for the distribution of such publications in the various localities throughout the United States; that the effect of said contract provision has been, and is, to substantially lessen competition with respondent's magazines and tends to create for the respondent a monopoly in the business of publishing magazines of the character of those published by respondent.

CONCLUSIONS.

From the foregoing findings, the Commission concludes that the method of competition set forth in Paragraph 2 of said findings, is, under the circumstances therein set forth, in violation of the provisions of Section 5 of an Act of Congress, approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and that the acts and conduct set forth in Paragraph 3 of said Findings are, under the circumstances therein set forth, in violation of the provisions of Section 3 of an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes."

(Signed) VICTOR MURDOCK,
*Acting Chairman,*
HOUSTON THOMPSON,
WILLIAM B. COLVER,
(Seal) *Commissioners.*

Dated this 21st day of July, A. D., 1919.

## COMMISSION'S ORDER TO CEASE AND DESIST—DATED JULY 21, 1919.

UNITED STATES OF AMERICA.
BEFORE FEDERAL TRADE COMMISSION, } *ss.:*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 21st day of July, A. D. 1919.

Present:

JOHN FRANKLIN FORT, *Chairman,*
VICTOR MURDOCK,
HUSTON THOMPSON,
WILLIAM B. COLVER, } *Commissioners.*

*Federal Trade Commission*
v.
*Curtis Publishing Company.* } Docket No. 15.

### ORDER TO CEASE AND DESIST.

The Federal Trade Commission having issued and served its complaint herein, and the said respondent, Curtis Publishing Company, having filed its answer admitting certain allegations of the complaint and denying certain others thereof, and the Commission having offered testimony in support of its charges in said complaint, and the respondent having offered testimony in its behalf, and the attorneys for the Commission and the respondents having submitted their briefs as to the law and facts in said proceeding, and the Commission having made and filed its report containing its findings as to the facts and conclusion that the respondent has violated Section 5 of an Act of Congress, approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and Section 3 of an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints

and monopolies, and for other purposes," which said report is hereby referred to and made a part hereof:

NOW, THEREFORE, IT IS ORDERED, That the respondent, Curtis Publishing Company, and its officers, directors, agents and employees, cease and desist, while engaged in competition in commerce among the several States and Territories of the United States and the District of Columbia, from entering into any contracts, agreements or understandings with persons, partnerships or corporations already engaged in the sale or distribution of the magazines or newspapers, or both, of other publishers, which provide that such persons, partnerships or corporations shall not act as agents for, sell, or supply to others at wholesale rates, any periodicals other than those of respondent without the written consent of respondent; and from entering into any contracts, agreements or understandings with persons, partnerships or corporations already engaged in the sale or distribution of the magazines or newspapers, or both, of other publishers, which provide that such persons, partnerships, or corporations shall not sell or distribute, or shall not continue to sell or distribute, the magazines or newspapers, or both, of other publishers; and from enforcing any provision which may be contained in any of respondent's present outstanding contracts with persons, partnerships or corporations now engaged in the sale or distribution of magazines or newspapers, or both, of other publishers, which provide that such persons, partnerships or corporations shall not sell or distribute the magazines or newspapers, or both, of other publishers, or shall not sell or distribute the magazines or newspapers, or both, of other publishers without the written consent of respondent.

By the Commission:

(Seal) (Signed) WARREN R. CHOATE,
*Acting Secretary.*

(Signed) CLAUDE R. PORTER,
*Chief Counsel.*

BEFORE THE FEDERAL TRADE COMMISSION.

---

*Federal Trade Commission,*
Complainant,
v.
*Curtis Publishing Company,*
Defendant.
Docket No. 15.

---

Room 401, Federal Building, New York City,

Wednesday, December 6, 1917, 10.15 A. M.

The above-entitled matter came on for hearing before Attorney-Examiner CHARLES S. MOORE.

---

Appearances:

JOHN WALSH, ESQ.,

A. M. DALY, ESQ., and

L. A. SPIESS, on behalf of the Federal Trade Commission; and

JOSEPH W. WELCH, ESQ., and JOHN G. MILBURN, JR., for the Curtis Publishing Company, 54 Wall Street, New York City.

---

## PROCEEDINGS.

EXAMINER MOORE: Gentlemen, this is the complaint of the Federal Trade Commission versus the Curtis Publishing Company. You may proceed on behalf of the Commission.

MR. DALY: Have the other side any preliminary motions they desire to make?

MR. MILBURN: No.

MR. DALY: Under the answer filed in this proceeding, Mr. Examiner, it appears in the last part that the respondent says, "For a further answer to the com-

plaint herein, the respondent alleges as follows''—it is the last part of sub-division 2 of paragraph 2.

MR. WELCH: What folio?

MR. DALY: It does not seem to be indicated.

MR. SPIESS: Nineteen, twenty and twenty-one.

MR. DALY: This part of the answer describes certain proceedings and negotiations with the Federal Trade Commission, and also recites all the proceedings in a suit between the Pictorial Review Company and the respondent in this proceeding. It is our contention that has no place in the answer, under Rule 3, for the reason that the rule is that the answer shall contain a short and simple statement of the facts which constitute the ground of defense, and also that it is absolutely immaterial and does not bear in any way upon these proceedings. I therefore desire to move that that part of the answer be stricken out.

MR. WELCH: In answer to that motion, I want to make a very brief statement about the situation.

MR. WALSH: Are you going to make an argument on that proposition?

MR. WELCH: I am going to make an argument in opposition to the application to strike out that portion of the answer.

MR. WALSH: I want to call the Examiner's attention to the fact that it will not be necessary to take in the arguments of counsel on the record. It is not desired that we should encumber the record with arguments. It is the desire to condense as much as possible, the record. A motion to strike from the answer will ultimately have to be decided by the Commission, and the argument would probably be made in its extension at that time. As I understand it, the Examiner at this time does not pass on the motion.

MR. WELCH: But Mr. Daly has stated the ground on which he makes his motion, and I think we should

have in the record the ground on which we oppose the motion, on which we contend the answer should remain as it is, not as an argument going into the merits of this case at all, but merely as a statement of our grounds for the propriety of this answer. I should like to have that in the record. I think we are entitled to have the grounds we stand upon a part of the record in the case, without, of course, any argument. I am not going to make an argument on this proposition.

MR. WALSH: That is satisfactory.

MR. WELCH: The matter was brought before the Federal Trade Commission on the complaint of, as we understand it, the Pictorial Review Company, some time in the early part of May or possibly in March. The Curtis Publishing Company was asked to go before the Federal Trade Commission for an informal discussion of the matter. They did, and they discussed the matter with the Federal Trade Commission. Some time went by, and no proceedings were brought in the nature of a complaint by the Commission, and before this suit was brought or this proceeding was commenced, a suit in equity was commenced in the United States District Court here by the Pictorial Review Company against the Curtis Publishing Company, and based upon a complaint and affidavit, they asked for a preliminary injunction restraining the Curtis Publishing Company from proceeding to use this contract.

The issues in this case and that case have been brought, as I say, before the Federal Trade Commission had commenced any proceeding. The issues in that suit were and are the same issues involved in this proceeding, precisely. We opposed that application for a preliminary injunction, and it came on before Judge Hand and was argued fully before him, and very full affidavits submitted, and he denied the appli-

cation for a preliminary injunction, writing a very full opinion setting forth his grounds.

After Judge Hand's decision had been rendered on the preliminary injunction, nothing happened in the case until this proceeding was commenced by a formal complaint being served upon the Curtis Publishing Company.

Now, Rule 3 of the Rules of Practice before the Federal Trade Commission, provides that the answer shall contain a short and simple statement of the facts which constitute the grounds of defense. We claim that inasmuch as the issues in this case in this proceeding are precisely the issues that were before the Federal Court in this district on the preliminary application for an injunction and in the equity suit which is now pending, and that those issues being the same, we are entitled to show before this Commission and before the Circuit Court of Appeals to which appeal may be taken from the order of this Commission, that these very same issues have been before a court of the United States and have been passed upon, in a preliminary way it is true, by a Federal Judge.

I submit that it is always competent and proper for a defendant to plead an adjudication by a court of competent jurisdiction, involving the same issues, and to plead it surely before a Commission of this character, where we assume that the rules of pleading cannot be as strict and the rights of the defendant so narrow as they sometimes are by the Rules of Practice in the States.

EXAMINER MOORE: Do counsel for the Commission desire to state anything further?

MR. DALY: Nothing.

EXAMINER MOORE: The decision on the motion of counsel for the Commission will be reserved for final determination by the Commission.

MR. DALY: Mr. Examiner, it is admitted in this case that the Curtis Publishing Company, the respond-

ent, is a corporation, organized and existing under and by virtue of the laws of the State of Pennsylvania, having its principal office and place of business in the City of Philadelphia in said State, and is now, and was, all of the times hereinafter mentioned, and for many months prior thereto, engaged in the publication, sale and circulation of weekly and monthly periodicals in commerce among the several states and territories of the United States and the District of Columbia.

As I understand, that is admitted in the answer, and counsel agreed that that shall be read into the record.

MR. WELCH: Yes.

MR. DALY: And that it publishes the following periodicals, to wit, "The Saturday Evening Post," the "Ladies' Home Journal" and "The Country Gentleman," and that the circulation—I take it that this will be admitted also—throughout the different states and territories of "The Saturday Evening Post" is approximately two million copies per week, of the "Ladies' Home Journal," 1,750,000 per month, and of "The Country Gentleman," approximately 400,000 per week.

I will ask the stenographer to mark these two papers which I hand him, as Commission's Exhibits A and B, respectively.

(The stenographer thereupon marked for identification, the papers referred to, "Commission's Exhibits A and B, respectively.")

MR. WALSH: I will ask counsel for the respondent if Exhibit A is the form of contract in common use by the respondent with its dealers throughout the United States?

MR. WELCH: That is the contract in common use throughout the United States, yes. There may be slight variations.

MR. WALSH: I offer in evidence Exhibit A.

(The form of contract referred to was thereupon received in evidence and marked by the stenographer, "Commission's Exhibit A.")

MR. WALSH: I will ask counsel for the respondent, if the paper which I hold, and which is marked "Commission's Exhibit C" is the form of order blank, which it requires its dealers to make when ordering publications from the respondents—that such order blank is the one in common use between the respondents and its dealers throughout the United States.

MR. WELCH: We concede that the order blank referred to is the order blank in common use in connection with Form JDA-3-a, which is Commission's Exhibit A, required by the Curtis Publishing Company from the Curtis Publishing Company's district agents in connection with their business.

MR. WALSH: I offer in evidence Commission's Exhibit B.

(The paper referred to was thereupon received in evidence and marked by the stenographer "Commission's Exhibit B.")

MR. WALSH: I will also ask counsel for the respondent how long Exhibits A and B have been in use by respondent.

MR. WELCH: Both have been in use for a number of years, but I cannot say definitely how long, until that is looked up.

---

THOMAS H. BECK was called as a witness on behalf of the Commission, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Give your address, Mr. Beck?

A. Business or home?

Q. Business.

A. 381 Fourth Avenue.

Q. What is your occupation?

A. I am second vice-president of the Crowell Publishing Company, in charge of sales.

Q. What is the business of your company, Mr. Beck?

A. Publishing.

Q. What?

A. Periodicals.

Q. What periodicals?

A. "Woman's Home Companion," the "American Magazine," "Farm and Fireside," and "Every Week."

Q. Can you give approximately the circulation of each of these particular magazines?

A. Yes.

Q. State whether they are monthly or weekly?

A. The "Woman's Home Companion" is approximately 1,100,000 monthly; the "American Magazine," approximately 800,000 monthly; "Farm and Fireside," approximately 650,000, now semi-monthly, and monthly after January 1st; "Every Week," weekly, approximately 600,000.

Q. Has your company competitors in your line of industry?

A. We have.

Q. Generally speaking who are these competitors and what do they publish?

A. Generally speaking, all publishers are our competitors.

Q. Particularly speaking, who is the competitor of your particular publications in each case?

A. I should say that the principal competitors are, of the "Woman's Home Companion," the "Ladies' Home Journal," the "Pictorial Review," and the publications of the Butterick Publishing Company; of the "American Magazine," such publications as "Cosmo-

politan," "Hearst's" and several others of lesser importance; of "Farm and Fireside," the "Farm Journal," "Successful Farming," and "Farm and Home"; of "Every Week," "Collier's Weekly" and "The Saturday Evening Post." That is about all.

Q. Why do you particularly designate these particular papers as competitors of your magazines?

A. Well, because we more or less appeal to the same public and through the same channels of trade.

Q. What do you mean by "channels of trade," Mr. Beck?

A. Well, in many cases, through the same channels of distribution.

Q. Will you describe to the Examiner the different channels of distribution that you exercise in getting your magazines to the public?

A. We solicit subscriptions by mail direct to the subscribers; we secure subscriptions through so-called subscription agencies; through free lance canvassers—commission canvassers that work throughout the country selling various publications—through our own branch organization, which operates in sixteen cities, where we have solicitors employed; then through newsstands' sales, selling to retail newsdealers, and sales through retailers to boys.

Q. You have spoken about your own particular organization. What do you mean by that?

A. That is a subscription organization operating in sixteen cities where we have branches with salaried managers in charge, and solicitors under the direction of these managers—house-to-house solicitors—securing annual subscriptions of our various publications.

Q. You are familiar with all the avenues of distribution throughout the United States, of certain magazines, are you?

A. I should say so.

Q. How long have you been in the business?

A. About seven years.

Q. Your particular duties with the Crowell Publishing Company are what?

A. Sales and circulation.

Q. You are chief in that division, are you?

A. Yes, sir.

Q. You have described the different avenues through which your magazines are promoted or sold. Will you please particularly describe the way through which you operate with wholesale dealers in the various cities?

A. On single copy sales?

Q. Will you give a complete description of making distribution through wholesale dealers?

A. Well, we market our publications through the American News Company to them, and through their branches in various cities, and in addition to that, we sell a limited number of large independent wholesalers and in other districts we operate through retail news dealers appointed to act as wholesalers.

Q. Appointed by whom?

A. By us—that is to say, designated or sold at a price that will enable them to re-sell.

Q. How do you operate through independent wholesalers—the independent wholesalers that you have described here?

A. I do not know just what you mean by that. We supply them with magazines and they, in turn, supply the newsdealers and boys.

Q. Do you deal direct with independent wholesalers or not?

A. With a few—a limited number.

Q. Where are these wholesalers located, as a rule—the wholesale dealers, I am speaking about?

A. The ones we do business with?

Q. No; I am speaking of the whole wholesale dealers' business. Where are they?

A. All over the United States, in large cities and centers.

MR. WELCH: What wholesalers is he referring to now?

MR. DALY: Independent dealers.

MR. WELCH: That he sells a limited number to?

MR. DALY: No; I am asking about the whole situation.

By MR. DALY:

Q. Do you know approximately how many there are in the United States?

A. Not of my own knowledge; I have been told there are about 1300—twelve to thirteen hundred.

Q. Would they be located in the large cities and small cities as well?

A. Principally the large cities.

Q. And would there be more than one in a city, as a rule?

A. Not often more than one.

Q. How do they get their magazines out to the people—the independent wholesalers?

A. The good ones have distributing facilities, either wagons, motor cars, or other means of distributing publications to the retailers and to the boys; that is, in their own cities.

Q. As a rule, do they operate out of their cities or not?

A. Some do; suburban.

Q. Now, you state that you have a limited number of wholesalers in different parts of the country. About how many of them have you?

A. I am really not competent to answer that. One of our other representatives can tell you better. I know of a few.

Q. He can give that information?

A. Yes; I can name a few. How many we have, however, I do not know.

Q. Will you now describe how the distribution of magazines is made through the American News Company—how do they operate?

A. We supply our publications to them and they distribute them through their branches and their branches redistribute to retail newsdealers. They cover the entire country with that service.

Q. What is the American News Company?

A. I am not competent to answer.

Q. In what business are they engaged?

A. In the wholesaling of magazines and publications, and I believe they have other business—books, chewing gum and candies.

Q. Do they distribute newspapers?

A. I believe they do, locally, at some places, but that I really do not know. I am not competent to answer that.

Q. Do you know how many branches it has, of distribution?

A. They have about sixty.

Q. Where are they located; do you know?

A. At various large centers—no; I could not answer that.

Q. Will you make a comparison of the efficiency of the different methods of distribution; I mean the method practiced by the American News Company and the methods practiced by the independent wholesaler and his organization, as to their efficiency?

A. Well, I do not know just how to answer that question.

Q. Have you been able to reach all the retail dealers through the agency of the American News Company?

A. Yes; we can reach all the retail newsdealers through the American News Company. We can reach

them—in other words, you can ship to them, because if their location and address are known, you can make the shipments.

Q. Do they follow up the distribution of the magazines to see whether or not they are distributed to the consumer—I mean the American News Company?

A. They have the promotion department for that purpose, but I believe it is very limited in its character. Generally speaking, their service in that connection is not so good.

Q. What was that again, Mr. Beck?

A. I say they have a promotion department for the purpose of following up the distribution of magazines, redistributing and changing orders. I should not say that it was very efficient, and it was very limited in its operation.

Q. Now, you have not depended on the American News Company entirely as a matter of getting your magazines to the people?

A. Yes, sir; in the matter of single copy sales, we practically depend on them.

Q. What efforts have you made to secure the services of the independent wholesalers? Have you ever made any, in the various cities throughout the United States, where these wholesalers are located, to increase the circulation of your magazines through them?

A. Approximately two years ago we made an effort in that direction, and then gave it up.

Q. What efforts did you make in that direction? Will you describe it?

A. We visited the wholesalers and corresponded with them and endeavored to get them to handle the sales of one of our publications—"Every Week."

Q. Which particular one?

A. "Every Week."

Q. That is the one that is a competitor of "The Saturday Evening Post," as you have testified?

A. Yes, sir.

Q. What was the result of that correspondence and of visiting these various wholesalers?

A. We found that most of the wholesalers were under contract with one of our competitors, and were not permitted to handle the publication. Some of them, however, attempted to handle it and jeopardized their agency arrangements with our competitor, and therefore they withdrew.

Q. Did you make a pretty general canvass of that situation, or what?

A. Thoroughly so. We gave it up of our own volition after we found the condition that existed.

Q. You say one of your competitors—which competitor?

A. The Curtis Publishing Company.

Q. Why was it you made this effort to secure the services of these wholesalers?

A. To secure a wider and more efficient distribution and better service and more circulation.

Q. Now, in what way could you have gotten more service and wider circulation through the wholesale dealers in the various cities?

A. As previously stated, I believe there are about twelve or thirteen hundred of the wholesalers and the American News Company has only sixty branches, and naturally we get better service and better distribution.

Q. They cover a wider territory than the American News Company?

A. No, sir; they cover it more closely.

Q. Go into the details of their distribution. I asked that before, but you did not go into that.

A. Through those wholesalers amounting to from nine to twelve hundred points of distribution—the other way you have sixty agencies, and this way we have 1200. Naturally, the 1200 are in closer contact

with the dealers and with the boys, and are in a better position to supply publications quickly and efficiently.

Q. How do these 1200 dealers distribute their magazines? Will you please describe that again?

A. The majority of these 1200 dealers are newspaper distributors primarily. In many cases they were put into business by the newspapers, and in consequence, they have a delivery service or methods that are both rapid and efficient, because that is necessary for the distribution of newspapers.

Q. Describe that.

A. Motor cars, horses and wagons, boys and solicitors of one kind or another, because they have to distribute newspapers which require even quicker distribution than the ordinary magazines.

Q. Do they keep in touch with the retailers, and what they are doing in that respect, or not—do you know?

A. They do. They naturally have an intimacy with the retailers that the American News Company would not have. They touch.

Q. They have an actual personal touch with the news dealer and, through him, they push the magazines—is that correct? I do not want to testify, but wish to hurry this along.

A. Yes, sir.

Q. You stated since you secured the services of a limited number of these wholesalers. Can you tell the Examiner how many of these wholesalers you have and where they are located?

A. No; I could not tell you how many. I could tell you some we have; I mean the ones who are known to me.

Q. Can you give the cities in which they are located?

A. Yes; in New York, the Interborough News Company, and in Chicago, Charles Levy.

Q. Mr. Beck, I think I asked you before, but your answer seemed to be indefinite in that line, why is it that the American News Company cannot keep in personal touch with these different retailers?

A. Why, they operate but sixty branches.

Q. Well, what do you mean by that?

A. They have sixty branches under managers, and I believe that there are nearly three hundred cities in the United States of over 25,000 population.

Q. These cover——

A. They cover sixty.

Q. And the remainder would be uncovered, as far as they were concerned?

A. For direct contact, except through travellers.

Q. They would not, then, be in touch with the retailers in the other cities where they have no branches? Is that what I should understand from your testimony?

A. Not to the extent that the wholesaler would, who was in the town.

Q. Then you gave up the effort to place your magazine, "Every Week," with the various wholesalers throughout the country; is that correct?

A. Yes; but we have since renewed the effort.

Q. Have you since renewed the effort?

A. Yes, sir.

Q. And you have secured a limited number?

A. Yes, sir; we have.

Q. Can you give me approximately that number?

A. No; I stated before that I cannot recollect how many there are.

Q. Now, knowing the business as you do, Mr. Beck, can you give any view as to the way in which your circulation is hampered, because of your inability to secure the services of these various wholesalers?

A. Why, I would not like to testify that our circulation was hampered on that account, because we be-

lieve we have enough ingenuity to get the circulation under any circumstances.

Q. But in the event you could get the services of the wholesalers, what would be your condition?

A. We could greatly increase our circulation.

Q. Can you give any estimate as to what you think that increase would be?

A. I should say, if we could reach all of the wholesalers in the country—that is to say, if we could do business with all of them—I think the doubling of our single copy sales would not be unreasonable to expect.

Q. On what particular publication?

A. On "Every Week."

Q. Do you mean by that, if they were not restricted by this contract that you have testified about, that they have with the Curtis Publishing Company—is that what you mean?

A. Yes.

Q. Have you ever seen the contract under which they operate, Mr. Beck?

A. I do not believe I ever have. If I have, I have not read it.

Q. Coming back to the American News Company, how does it make deliveries to retailers in places where there are no branch houses?

A. Through the mail and by express.

Q. Can you testify, Mr. Beck, as to the relative cost of doing business through the American News Company and through the independent wholesaler?

A. No; I do not think I could, except to say that I know, or rather feel that doing business through the independent wholesaler would not be any more expensive than through the news company—probably less so, because of less returns and more efficient service.

MR. DALY: That is all.

EXAMINER MOORE: You may cross-examine.

CROSS-EXAMINATION.

By MR. WELCH:

Q. Mr. Beck, you have been with the Crowell Publishing Company for seven years?

A. No, sir; I said I had been in the publishing business for seven years.

Q. You have been in the publishing business for seven years?

A. Yes, sir.

Q. How long have you been with the Crowell Publishing Company?

A. I have been with them about four years.

Q. What was the circulation of the "Woman's Home Companion" when you started four years ago?

A. Approximately 950,000.

Q. Approximately 950,000?

A. Yes, sir.

Q. That has increased from 950,000 to 1,900,000 a month in four years?

A. Yes, sir.

Q. What was the circulation of the "American Magazine"—is that one of those you mentioned?

A. Yes, sir.

Q. What was the circulation of the "American Magazine" four years ago?

A. About 450,000.

Q. 450,000?

A. Yes, sir.

Q. The circulation of that magazine has about doubled in the last four years, has it not?

A. Nearly so.

Q. What was the other magazine you mentioned? "Farm and Fireside"?

A. Yes, sir.

Q. What was the circulation of "Farm and Fireside" four years ago?

A. I should say about 500,000. These are approximate figures.

Q. I suppose the figures you gave both ways are approximate?

A. Yes.

Q. That has increased from 500,000 to 600,000 semi-monthly, in four years?

A. Yes, sir.

Q. The other magazine you mentioned was "Every Week"?

A. Yes, sir.

Q. What was the circulation of that when you started four years ago?

A. It has not been operating four years.

Q. How many years?

A. Two years last May. That would be about two and one-half years, would it not?

Q. So, in two years that circulation has been built up to that it is now 600,000 weekly?

A. Two and one-half years.

Q. And those circulations have been built up and increased through the methods of distribution you have described here—is that correct?

A. Yes, sir.

Q. Now, how many of your magazines—how many of the "Woman's Home Companion" would you say you would distribute by subscription?

A. I could only give you rough approximate figures.

Q. About how many?

A. I should say about 800,000—850,000.

Q. 850,000?

A. Yes, sir.

Q. And what is your subscription of "Every Week"?

A. Subscriptions?

Q. Yes.

A. I should say about 350,000.

Q. You spoke of subscriptions by mail and distribution through sub-agencies. What do you mean by sub-agencies?

A. I do not recall that—through branch offices—oh, subscription agencies?

Q. Yes.

A. Those are professional subscription agencies like Hanson & Bennett and others like that.

Q. You refer to your own branch organization. Does that distribute all of your magazines?

A. They do not distribute; they sell. The distribution is made by mail. They sell yearly subscriptions and two-yearly subscriptions.

Q. That is connected with your subscriptions by mail?

A. No, sir; subscriptions by mail are secured by circular letters.

Q. Then you spoke of distribution through newsstand sales—that is, to retail news dealers. You referred then, to distribution through the American News Company, didn't you?

A. Yes, sir; except in a few instances that I also spoke of where we distribute to independent wholesalers, so-called.

Q. And to distribution by retailers to boys, you mentioned as one of your methods of distribution?

A. Yes, sir.

Q. What boys did you refer to there—what was the character of the service they gave?

A. Newsboys and newspaper carrier and route boys. You see, in many localities, there is a newspaper organization, boys who distribute newspapers to the home, and there is another type of boy, who is the ordinary street corner urchin, who sells newspapers—those boys. We are supplying them through the retail dealers whom we appoint to supply them.

Q. How many of those retail dealers are there that supply them?

A. We have in one city, fifteen, for example.

Q. Where is that?

A. In Pittsburgh, because we could not use the wholesaler there and had to have a large number of retailers, because they had no distributing agents.

Q. You have fifteen retailers or wholesalers?

A. I would like to verify that by one of my associates, but I believe that is correct. Those are retailers who, however, wholesale our publications.

Q. What is that?

A. They are retailers who wholesale the publications.

Q. They are retailers who wholesale the publications?

A. Yes, sir; they are only wholesaling ours, because I do not think they have had any such proposition from anyone else.

Q. They only wholesale your papers?

A. They are the only ones I know of that have that plan.

Q. They have boys of their own to distribute these?

A. No, sir; they have the newsboys, carrier boys—all boys.

Q. You distribute in Pittsburgh through other sources of supply, do you not?

A. Through the American News Company.

Q. Also?

A. Yes, sir.

Q. In what other cities have you retailers of this character who wholesale your papers?

A. I do not recall what cities they are.

Q. How many of them?

A. I would not be able to answer that. Either of my associates who are summoned here——

Q. What is that?

A. Either of my associates who are summoned here with me today could tell you.

Q. Could you not give me a rough estimate of about how many cities?

MR. DALY: Let him ask his associate.

MR. WELCH: All right.

THE WITNESS: How many of them are there, Mr. Welker?

MR. WELKER: There are approximately 200 retailers who are wholesaling our publications.

THE WITNESS: There are 200 retailers who are wholesalers.

By MR. DALY:

Q. Where are they located?

By MR. WELCH:

Q. Approximately 200 retailers are distributing wholesale for you?

A. Reselling.

Q. How long has that practice been in use—approximately?

A. I should say about a year.

Q. Are you increasing the number of retailers every year who distribute and handle your magazines by wholesale?

A. Not now.

Q. You are not?

A. Not any longer.

Q. How long did it take you to build up that organization of 200?

A. I should say about a year.

Q. You say the retailers—that approximately 200 retailers throughout the country who sell and distribute your magazines at wholesale—do not handle any other publications?

A. Not that I know of.

Q. Do you have a written contract with those wholesalers?

A. In some cases; yes.

Q. Do you happen to have one of them here?

MR. WALSH: I do not see the relevancy of that, Mr. Examiner. I do not care to object, but what has that to do with this case, as to whether some retailer has a contract with the Crowell Publishing Company?

MR. WELCH: I simply want to say that we want to show that this company—and I think we can show that—that this company is doing business in the same way as our company. They have a contract—I have not seen it—but they have a contract with these retailers in which they have the same clause restricting them from dealing with other magazines.

THE WITNESS: No, sir.

MR. WELCH: Now, Mr. Examiner——

EXAMINER MOORE: He has answered the question.

MR. WELCH: He simply said they handle no other publications.

By MR. WELCH:

Q. Why do not these retailers who distribute these magazines wholesale, handle other publications?

A. The only reason there could be is that they have not been made propositions, or do not care to accept propositions from others.

Q. Have you any restrictions on their accepting other magazines?

A. No, sir.

Q. Have you any understanding with them——

A. Yes.

Q. Have you any restrictive arrangement with them as to handling other magazines?

MR. WALSH: I object to that——

THE WITNESS: No, sir.

MR. WALSH: Go ahead, then.

By MR. WELCH:

Q. Do these people you describe as wholesalers, numbering about 200, and who supply the newsdealers in the towns in which they operate, get their copies from you direct?

A. They do not supply the news dealers—I just want to correct that.

Q. They supply the boys?

A. Yes; they get their copies from the American News Company.

Q. They get their copies from the American News Company and not direct from you?

A. No, sir; from the American News Company branch.

Q. Is it not a fact that any one of these retailers could obtain all the copies of the magazines he wanted, from the nearest branch of the American News Company?

A. Not on a basis of price that would enable resale, unless we made an arrangement with them.

Q. I ask to strike out the answer as being entirely irresponsive. I asked if they could get them or not.

MR. WALSH: I think he answered it properly. If a price is made to them that is prohibitive, then they cannot receive them, because no one is expected to do business at a loss.

EXAMINER MOORE: Read the question, please.

(The stenographer repeated the question as above recorded.)

EXAMINER MOORE: Let it stand.

MR. WELCH: Exception.

EXAMINER MOORE: The witness desires to explain to counsel that there is a possibility that he has not disclosed, of——

THE WITNESS: I thought it would be clearer to both sides to explain that there are two editions of "Every Week"; one is called the Star Edition, and one is called the Boy Edition, marked with the silhouette of a boy. In answer to your question, he could not secure the Boy Edition, except by an arrangement with us. He could sell the Star Edition—they are differently priced.

Q. You mean the retailer?

A. Yes; he gets the Star Edition for his own sale over his own counter to the customers, and gets the Boy Edition for resale to the boys. They are differently priced and there is a different margin of prices on them.

Q. Any dealer handling the Star Edition can get that Star Edition from the American News Company in any part of the country?

A. Yes, sir.

MR. DALY: Where they operate?

THE WITNESS: Yes, sir.

MR. WELCH: I did not ask that. I do not think that is proper.

MR. DALY: I will withdraw that. I will ask that later.

By MR. WELCH:

Q. Is it not a fact that the American News Company operates throughout the United States and reaches every part of the country?

A. Yes, sir.

Q. Do you know of any place or locality where a retailer could not get, through the American News Company, the Star Edition of the magazine you refer to, and your other magazines?

A. I do not.

Q. You have referred, Mr. Beck, to independent dealers and wholesalers. What do you mean by whole-

salers that you say are scattered all over the country—approximately 1300—what men do you mean?

A. Newspaper wholesalers.

Q. Do you identify particularly the newspaper wholesalers that you refer to with the district agents of the Curtis Publishing Company, or persons who are handling the Curtis Publishing Company's publications?

A. No; most of the newspaper wholesalers are also Curtis Publishing Company's agents—at least, so they tell us.

Q. How do you know there are 1300 of these wholesalers throughout the country?

A. I believe when I testified, I stated I had been told that there were.

Q. You say there is not often more than one in a single city—is that correct?

A. Only one good one.

Q. Only one good one?

A. That would be more correct.

Q. What do you mean by one good one? You mean there are others, but, according to your judgment, not as good as a particular one that you have in mind; is that it?

A. In most cases there is only one, and in some cases there are more than one.

Q. How do you know in most cases there is only one—is that what you are told?

A. Reports of our traveling men and correspondence——

Q. In referring to these wholesalers which you approximate about 1300, you said they had distributing facilities consisting of wagons, et cetera, and boys; is that correct?

A. Newspaper-carrier boys and street-corner boys.

Q. Did you ever hear of the Curtis Boys' Organization?

A. Yes, sir.

Q. You have heard of that?

A. Yes, sir.

Q. You know, do you not, that the Curtis Boy Organization was built up by the Curtis Publishing Company?

A. I believe that is stated.

Q. Now, these boys you refer to as handling the papers for these various wholesalers, are they not boys that are the Curtis Publishing Company's boys, in most instances?

MR. DALY: I object to that because it is not in line with the direct examination. There is no testimony about that particular thing in this direct examination, and it is not within the knowledge of this witness to be able to tell that. He has not testified about that.

MR. WELCH: He testified that the distribution was made through boys, and it seems to me I have a right to interrogate him on the character of boys and what boys. He also states that he knew the Curtis Company built up the boys' organization.

MR. DALY: He described the kind of boys in his testimony. There has been no evidence about Curtis boys.

MR. WELCH: This whole case is permeated with the question of these boys, the Curtis boys, and the handling of various periodicals by boys.

EXAMINER MOORE: The question of boys was not brought out in the direct examination.

MR. WELCH: Yes; he answered the question himself. He stated the wholesaler distributes his periodicals through equipment consisting of wagons and boys; did you not, Mr. Beck?

THE WITNESS: Yes, sir.

MR. DALY: He says it is not within his knowledge—that he had heard so.

MR. WELCH: I submit I should have an answer to the question on the record.

EXAMINER MOORE: If it is not within his knowledge, I do not see how he can answer it.

MR. WELCH: I do not think he said he had no knowledge.

MR. WALSH: Will you put the question again, Mr. Welch?

MR. WELCH: Read it, Mr. Stenographer.

(The stenographer repeated the question as follows: "Q. Now, these boys you refer to as handling the papers for these various wholesalers, are they not boys that are the Curtis Publishing Company's boys, in most instances?")

MR. WALSH: The question is objectionable because it goes on the assumption there is such a thing as Curtis boys, and no foundation has been laid for any such inquiry, characterizing any boys as the Curtis boys.

MR. MILBURN: The witness testifies he knew of an organization known as the Curtis boys.

MR. WALSH: He stated it was asserted.

THE WITNESS: I have heard it stated.

EXAMINER MOORE: The objection is sustained.

MR. WELCH: I take an exception.

EXAMINER MOORE: The exception will be noted.

By MR. WELCH:

Q. You have stated you heard it stated that there was an organization known as Curtis Company Boys. Is that all you know about the Curtis Company Boys? Don't you know it?

A. I have never been able to make clear in my own mind, if I may make this statement now, what was the difference between a boy and the Curtis boy.

Q. Do you not know that the Curtis Publishing Company has a very large organization which they built up, which they operate and control, of boys?

A. Control?

Q. Well, not control, but an organization which looks to them as the parent company.

A. Of boys?

Q. Yes.

A. No; I would not say that I do.

Q. Boys distributing magazines?

A. No; I would not say that I do. I have had a great deal of dealing with these boys. They are boys, and they are——

Q. How long have you been in the magazine business?

A. Seven years.

Q. During that seven years, you say that you never appreciated there was any organization known as Curtis Boys?

A. I do not say known as Curtis Boys. I know there is, in the Curtis Company's expensive advertising, and in their promotion matter, the claim is constantly made, I believe, by them—and an attempt is made to uphold it—that these boys are theirs exclusively. I have never been able to reconcile myself to that—that the boys are only boys, and they sell other things. They work on prize contests concerning other publications, and they also work on newspapers. They have sold our publications. For example, in my direct experience with "Every Week," in contact with the boys, I found that while they sold "The Post" and "Every Week," I did not find they considered themselves the property of the Curtis Publishing Company.

Q. Where did you make such an investigation?

A. Harrisburg, Pennsylvania.

Q. Harrisburg, Pennsylvania?

A. Yes; through our traveling men.

Q. Where else did you find them?

A. Wherever our travelers have gone.

Q. You found these boys, you say, not handling only Curtis Publishing Company's publications, but all other publications?

A. No; I said when and where the boys have sold our publications and the Curtis publications, I did not find that those boys considered themselves the exclusive representatives of Curtis.

Q. You do not know that there are boys who do consider themselves exclusive representatives of Curtis?

A. There may be, I do not know.

Q. Do you not know?

A. I have no personal knowledge of my own.

Q. Have you ever heard of such a claim of such an exclusive idea in the minds of the boys?

A. Not in the minds of the boys—in the minds of the Curtis Publishing Company; yes.

Q. Now, Mr. Beck, you say that many of the wholesalers that you have referred to as wholesalers, were newspaper dealers and were put into the business by the newspapers?

MR. DALY: What is that question—read it, Mr. Stenographer.

(The stenographer repeated the question as above recorded.)

By MR. WELCH:

Q. Do you know that?

A. Yes, sir.

Q. How do you know that any of these wholesalers were put in business by newspapers?

A. Mr. Scholz, the circulation manager of the Crowell Publishing Company, when circulation manager of the Record-Herald, in Chicago, organized and put in business in conjunction with the other news-

papers in the Middle West, a large number whose names he definitely knows. In New England there is a large organization of dealers handling the "Boston Post," and whose primary franchise is the sale of the "Boston Post." I recently made an address to those dealers.

Q. Made what?

A. I recently met and addressed them at a meeting, and they personally told me they were primarily newspaper dealers.

Q. Had you been told by any of them that they were put in business by the newspapers?

A. It would depend on how you interpreted it. I mean the franchise that enables them to stay in business and continue in business is that of the "Boston Post" and "Globe" and other Boston papers—primarily the "Post."

Q. That is around Boston; but you said they were put in business by the newspapers. Do you know that those Boston men that you refer to were put in business by the newspapers?

A. They so said; but several, the dealer in Fall River——

MR. WELCH: I move to strike out "they so said," and I move to strike out the statement made by the witness on his direct examination to the effect that practically—in these words—the majority of the wholesalers were newspaper dealers, and were put in business by the newspapers, on the ground it now appears he had no independent information, but that it was stated to him by other people who are not in the case and not testifying under oath.

MR. DALY: This witness is testifying about general conditions in the trade; about wholesalers that he has been in contact with and was addressing them with reference to this particular trade,

and the reasons that these wholesalers give about their business to this man, who is engaged in the circulation of magazines throughout the country with these people, are perfectly relevant in this proceeding.

MR. WELCH: Perfectly relevant, but the witness has shown he has no knowledge whatsoever of the statement he has made, except upon hearsay.

MR. WALSH: The witness was simply testifying as to general conditions in the industry in which he is engaged. The objection has never been made as to what he testified upon direct examination, and at that time he was then testifying upon general conditions in that industry, and he is now so testifying as to such general conditions. If the testimony, as counsel says, is hearsay—which I do not think it is, because it is testimony as to general conditions in the industry in which this man is an expert, and therefore it seems to me that the testimony is properly admissible and can be properly considered as to the conditions in the industry and not as to specific facts—it is subject, of course, to proper cross-examination by counsel on the other side, to go to the extent of the witness's knowledge.

MR. DALY: And further, if this testimony would be admissible by persons, if produced, in situations of this character, it is also admissible for this man to tell what these people said about their trade.

EXAMINER MOORE: The motion is denied.

MR. WELCH: Exception.

By MR. WELCH:

Q. Now, you testified that these various wholesalers kept in touch with the retailers better than the American News Company. What do you mean by "kept in touch"?

A. I mean service—re-orders—that is, to the news dealers; quicker service; service on re-orders and service on returns and re-arrangement of distribution among the dealers.

Q. Now, Mr. Beck, you spoke of having made some renewed efforts—recently, I think you said—to obtain wholesalers in various parts of the country to handle your publications, and that you got some?

A. Yes, sir.

Q. About how many, in addition to the two hundred that you speak about, did you get?

A. I would like to be excused from answering that question, because counsel is talking from the standpoint of a competitor, and that is information that I do not think I should divulge.

MR. WALSH: Read the question and answer, please.

(The stenographer repeated the question and answer.)

MR. WELCH: It seems to me it is a question that has got to come out in the case. He is testifying as a competitor.

THE WITNESS: Mr. Examiner——

EXAMINER MOORE: Just a moment.

MR. WELCH: You said you made renewed efforts to get some more wholesalers, and got them.

MR. WALSH: Read the last two questions and answers, Mr. Reporter.

(The stenographer repeated the last two questions and answers.)

MR. WALSH: It is objected to as irrelevant. It does not go to the question under inquiry here. The inquiry here is whether or not the effect of this contract, which has been introduced in evidence (Exhibit A) with the accompanying exhibit (Exhibit B), is such a contract as tends to lessen competition, or tends to create a monopoly. The

question asked the witness has no tendency to make proof of the lessening of the competition or the tendency to create a monopoly, but the only thing that the question could bring out is the extent of increased business which this witness's company may have gotten through some other agency. The inquiry here is as to whether or not they have been hampered by this contract.

MR. WELCH: The question whether or not this company has been able to get other business, as he testified he had, to handle their publications, is one that bears directly on the question whether the Curtis Publishing Company, in its arrangement, has affected competition. If they can get other persons to handle their publications, then there has been no restraint of trade or effect on competition, and that is surely the issue in this case. I wish, Mr. Examiner, you would just bear this in mind, that he was asked the question, and he testified that since his efforts of a couple of years ago, he had renewed his efforts to get wholesalers, and had gotten some. We are asking how many and where.

MR. WALSH: I withdraw the objection.

THE WITNESS: May I make a statement?

EXAMINER MOORE: Yes.

THE WITNESS: These wholesalers that we have gotten recently, since we renewed our efforts, are practically, without exception, under this contract that is in this case; that is this exclusive contract, and these agents, under pledge of secrecy to our company, have violated that contract, or intend to. This operation will not begin until the first of the year. The probability is that if the Curtis Publishing Company were advised by me in this Court, I am sure they would take measures that would probably offset very materially our plans. In

other words, I am revealing to them what we intend to do, and I do not think it is proper, and if I may, I would like to be excused.

MR. WELCH: I do not think the witness's objection has any standing whatsoever on the grounds he has stated. He has made a secret agreement with certain people, and does not want to testify in open court as to what he has done. We are entitled to know. I ask how many——

MR. MILBURN: The contract has been sustained in this court.

MR. WELCH: Judge Hand has sustained the contract.

EXAMINER MOORE: Read the question and answer.

(The stenographer repeated the question and answer.)

MR. WALSH: He is only asking for the number.

EXAMINER MOORE: I think he had better answer the question as it is.

THE WITNESS: I want to correct one thing in the record. The 200 that we have are retailers, and not wholesalers.

By MR. WELCH:

Q. They do your wholesale business?

A. Yes, sir.

Q. They are wholesalers, as far as you are concerned?

A. Yes, sir.

MR. DALY: They are wholesalers to boys only?

THE WITNESS: Yes, sir.

MR. DALY: And they are not the wholesalers you are speaking about under contract with the Curtis Company?

THE WITNESS: No, sir.

MR. WELCH: They are absolutely different persons. I quite understand that.

THE WITNESS: They are different from them.

EXAMINER MOORE: What kind of contract have they with the Curtis Company—have they a retailer's contract with the Curtis Company?

THE WITNESS: Not that I know of.

EXAMINER MOORE: You may answer the question.

THE WITNESS: I should like to have the advice of counsel for the Crowell Publishing Company before I answer.

MR. WALSH: As to the number?

THE WITNESS: Yes.

MR. WALSH: Do you object to giving that information?

THE WITNESS: Yes; I am not represented by counsel.

MR. WALSH: Mr. Examiner, I think he has that right.

MR. WELCH: We have been called upon to furnish all our lists, et cetera, and we are perfectly willing to give the Commission anything it wants. It seems to me the refusal of the witness to answer as to the number of persons he stated on his direct examination, is one that you should pass upon and direct the witness to answer.

EXAMINER MOORE: Is not this a trial of the Curtis Publishing Company, and not a trial of the "Woman's Home Companion"?

MR. WELCH: That is quite true, but he got these people, and it is very important and material to our case, to find out how many he got, in order to ascertain the facility with which he can get them.

MR. WALSH: The witness, up to this time, has

not absolutely refused to give the information, but he asks for time to advise with counsel. I think that is a perfectly fair statement for the witness to make, and a fair request. After consideration, after lunch, this witness can be called back.

MR. WELCH: If he will return after he has advised with counsel, that will be satisfactory.

EXAMINER MOORE: Withhold the question until after lunch.

MR. WELCH: Very well.

By MR. WELCH:

Q. I do not understand one thing you said, Mr. Beck. You said you would not say that your inability to get certain wholesalers, as you called them, to handle your magazines, had hampered your circulation—did you not?

A. Yes; it was the form of the question I did not approve.

Q. In other words, you mean by that, I presume, in case you could get the free use or use of the Curtis district agents throughout the country, you could increase your circulation?

A. No, sir.

Q. You do not mean that?

A. No; if I could do business with the independent newspaper wholesalers, I can greatly increase the circulation.

Q. Why can you not do business with the independent newspaper wholesalers?

A. Because I find most of them are under exclusive contracts with our competitor.

Q. Then they are the persons I referred to as Curtis agents, are they not?

A. They would be under your interpretation.

Q. You find they are under contract with the Curtis Publishing Company?

A. Exactly.

Q. Therefore, if you could get hold of all of these men under contract with the Curtis Publishing Company, you could increase your sales?

A. No, sir, that does not express it correctly. I do not want to get hold of them. If I could have the right to sell them——

Q. If you could get the right to sell to persons who are dealing in and handling the Curtis Publishing Company's publications, you could increase your circulation?

A. If I could get the right to sell and do business with people handling and doing business with other magazines, and, incidentally, the Curtis publications, I could increase our circulation. Could I explain? I do not want the answer to be interpreted that I would make a proposition to men who handle your publications exclusively and had no others, and are salaried men on your staff. I do not want my own company or myself to be misinterpreted. I am talking about wholesale news dealers. If you have such distributors, I do not mean them; I only mean those who are in business distributing newspapers, who were in business before they took on your proposition.

Q. But you have gone to persons who, you knew, were handling Curtis publications, and were under contract with the Curtis Publishing Company?

A. If they were news wholesalers. If they were wholesalers of newspapers and other periodicals; yes, sir.

Q. And in making an arrangement with them, you did it under a pledge of secrecy?

A. No, sir; I said the recent arrangements were made under confidence.

Q. You used the words "under a pledge of secrecy."

A. I would like to correct it to "a pledge of confidence."

Q. What is the difference?

A. No difference, perhaps, but I do not like the word "secrecy."

Q. What was the pledge—they would not say anything about it or you would not?

A. They asked protection of confidence against retaliatory measures on your part, and I granted it.

Q. They asked you?

A. Yes, sir.

Q. How would you protect them?

A. By not testifying who they were.

Q. That was the pledge of secrecy?

A. No, sir; the pledge of confidence.

Q. Have you had any conversation with Mr. MacKinnon, of the "Pictorial Review," before that campaign, in regard to this matter at all?

A. Until I said "Good morning" to him here this morning, I think that is the first time I have spoken to him in approximately a year.

Q. Have you had any correspondence with him?

A. No, sir.

Q. Any interviews or conferences with any of his staff?

A. None whatever.

Q. Did I understand you to say that you could not give the relative cost of distribution with respect to the American News Company and distribution through so-called wholesalers?

A. I do say that, with some exception.

Q. What is that exception?

A. That the returns would be lessened by more efficient service, and the cost would be lower, through the other wholesalers.

Q. Why would the cost be lower?

A. Because of the service in the distribution and redistribution and reordering would be so much better, that you would get a more efficient distribution, and, therefore, your net sales would more nearly approximate your gross distribution. You would have fewer returns and less expense for returns.

Q. That is, it would be less than through the American News Company?

A. Yes, sir.

Q. But where you have the 200 or more retailers acting as your wholesalers, they get their magazines through the American News Company?

A. They only operate for the supplying of boys.

Q. Just answer the question, please.

A. They get them through the American News Company; yes, sir.

Q. How long have you been in the magazine business and publishing business?

A. Seven years.

Q. With whom were you before you went with the Crowell Publishing Company?

A. P. F. Collier & Sons.

Q. What was your business prior to that, Mr. Beck?

A. I was sales and advertising manager with Proctor & Gamble, of Cincinnati.

MR. WELCH: That is all for the present, until after you return after lunch, when we can discuss the question to which you reserved answer.

MR. DALY: Mr. Examiner, the witness is to come back after lunch.

EXAMINER MOORE: Do you desire to excuse him for the present?

MR. WALSH: Yes.

MR. DALY: He desires to consult counsel, and he may be excused for the present.

ERNEST A. SCHOLZ, called as a witness on behalf of the Commission, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. What is your full name, please?

A. Ernest A. Scholz.

Q. And your occupation?

A. 381 Fourth Avenue, circulation manager of the Crowell Publishing Company.

Q. You are under the direction of Mr. Beck, who has just testified, are you not?

A. Yes, sir.

Q. How long have you been with the Crowell Publishing Company?

A. Over three years.

Q. During that period you have been this same circulation manager—is that correct?

A. No, sir; the last two years or two years and a half.

Q. Prior to that, what did you do? Prior to your going with the Crowell Publishing Company?

A. With the "Record-Herald," in Chicago.

Q. What position did you hold there?

A. The last year business manager, and previously, circulation manager.

Q. How long were you with the "Record-Herald"?

A. More than twenty-five years.

Q. You are familiar with the circulation of the newspapers in that section, are you?

A. I think I am.

Q. How were the various newspapers of the city of Chicago circulated during the time you were with the "Record-Herald"?

MR. WELCH: I object to such a general question, unless he shows he knows, and the basis of his knowledge. I do not object to asking about his own newspaper.

By Mr. Daly:

Q. Were you familiar with the circulation of other papers in that city?

A. Yes, sir.

Q. And the communities around there?

A. Yes, sir.

Q. Through what agencies did the papers of Chicago reach the people, while you were there?

A. Through agents' handling, in most cases, all Chicago papers, and also through direct mail subscriptions.

Q. Was there any concerted action on their part as to the circulation of other papers; and if so, what was it?

A. We had a Circulation Managers' Association there, and through the co-operation of this association, there was concerted action.

Q. What was this action—what did they do about getting out their papers?

A. Well, there were numerous things or several things.

Q. Well, what were they?

A. One thing we did out there was to effect a saving and consolidation of agencies. In some cases, we found one man handling the "Record-Herald," and another man handling some other Chicago paper, and by combining, we got a more effective organization and better service, and made the agencies more valuable to the men in the end who held them.

Q. What agencies do you now speak of?

A. Of the Chicago papers.

Q. That they established?

A. That had been in existence for a number of years. In some instances, they were combined in the hands of one man, and in other cases they were split up into the hands of two or three men.

Q. Do you know anything about the circulation of "The Saturday Evening Post," or the magazines of the Curtis Publishing Company—did you know anything about that while you were there?

A. Yes, sir.

Q. Will you tell the Examiner as to how they were circulated?

A. I came in contact with them.

Q. With whom?

A. With the facts bearing on "The Saturday Evening Post" circulation, when they made the arrangements with the wholesalers to handle the Curtis publications.

Q. What arrangements did they make with these wholesalers?

A. I did not see the contracts that they made, but they put them under contract.

Q. Did you have anything to do with assisting in making contracts or not?

A. In a few instances I think that I wrote to Curtis suggesting that certain men would be good agents for them, and I have recollection of inviting the Curtis people to place their agencies with our agencies out there—to combine the agencies.

Q. You mean the newspaper agencies you have told us about here?

A. Yes, sir.

Q. How many of those agencies were formed, if you recall?

A. I think it was 125.

Q. And where were they located?

A. As far west as Lincoln, Nebraska; as far north as Duluth; as far south as Cairo, Illinois; and as far east as Cleveland and Columbus and Dayton, and places like that—Springfield.

Q. Those were the original newspaper agencies that they associated themselves with—is that correct?

A. Yes, sir; generally so.

Q. And sold papers, of which your paper was one——

A. Yes, sir.

Q. In those communities?

A. Yes, sir.

Q. Have you made any effort since you came with the Crowell Publishing Company, to reach these agencies that you helped to establish?

A. Yes.

Q. What did you find when you tried to secure the services of those agents for the Crowell Publishing Company?

A. I was generally unsuccessful.

Q. Why?

A. On account of the exclusive contracts they had with the Curtis Publishing Company.

Q. Did you meet any of those agents personally?

A. Yes, sir.

Q. Solicit their patronage or their services?

A. Yes, sir.

Q. Will you give instances, if you can recollect them?

A. The first instance I can recall is Eric Nelson, of Omaha, Nebraska.

Q. What did you do towards getting his services?

A. I happened to be out in Omaha on a trip for "Every Week." This was when "Every Week" was a separate corporation, before the Crowell Publishing Company owned it. I was over there temporarily for six or seven weeks. I asked Nelson to handle the publication as a wholesaler, knowing what his service was, and to make a long story short, he refused.

Q. Did he give any reasons for his refusal?

A. Yes; the Curtis contract.

Q. Whom else did you see among these agents, if you saw any of them?

A. I did not see very many, because I was only with the "Every Week" Company six or seven weeks—in 1915, I guess it was—but I recall another case, Mr. Schaffer, of Pittsburgh, where I came in personal contact with him.

Q. He is a wholesaler in Pittsburgh, is he?

A. Yes, sir.

MR. WELCH: What is his first name?

THE WITNESS: I cannot recall that.

By MR. DALY:

Q. Is it Henry Schaffer?

A. Yes, sir.

Q. What were the facts and circumstances surrounding your endeavor to secure Mr. Schaffer's services?

A. First he said he would, and then he said he would not handle our publications.

Q. Did he handle them?

A. No, sir.

Q. Did he give any reason?

A. He gave the Curtis contract as his reason.

Q. Now, since you have been with the Crowell Company, through your organization, you have tried to get a number of these same agents; have you not?

A. Yes, sir.

Q. Have you been able to get them?

MR. WELCH: I object to it. It is leading, but I do not object to it on that ground so much as to indefiniteness.

MR. DALY: The same 125 that he testified about.

MR. WELCH: I just wanted to know to what you referred.

MR. DALY: I am speaking about the 125 agents that the witness spoke about as having been instituted——

THE WITNESS: We have not made any attempts more recently. We made an effort at one time, and then on account of our lack of success, we stopped the attempt.

By MR. DALY:

Q. Was the lack of success owing to the contract or not?

A. Yes, sir; owing to the contract.

Q. Can you describe or tell me where these agencies are located?

A. Which agencies?

Q. These 112, or the leading ones?

A. All through Illinois, Iowa, Wisconsin, Michigan, Indiana, parts of Ohio, Nebraska, Missouri, Minnesota and South Dakota.

Q. And in what cities?

A. Places like Milwaukee, Rockford, Freeport, Des Moines, Lincoln, Nebraska, Grand Rapids, Detroit, Kalamazoo, Battle Creek, Indianapolis, Terre Haute, South Bend, Elkhart, Peoria, Bloomington, Springfield and the whole list, I guess.

Q. That is all.

CROSS-EXAMINATION.

By MR. WELCH:

Q. Now, these 125 agents that you speak of as scattered all over the Middle West and Western States, were men that, as a result of your efforts and the efforts of this association, handled newspapers——

A. Yes, sir.

Q. They were newspaper dealers?

A. Yes, sir.

Q. You made an effort, you said, to reach these 125 agents?

A. Not all of them—here and there, as their names occurred to me.

Q. Now, about how many do you think you made an effort to reach?

A. I judge roughly about twenty-five or thirty.

Q. How many of the 125 newspaper dealers do you think were handling Curtis publications under the contracts that you have referred to?

A. How many are handling them now?

Q. Yes.

A. Of course, it is some years since I was out there, and in touch with the thing, but I should say at least eighty per cent.

Q. Now, you testified that your efforts were not successful on account of this exclusive contract?

A. Yes, sir.

Q. Were they successful in any instance at all?

A. If you can call the case of Charles Levy an instance, yes—Levy at Chicago.

Q. Was he the only one as to whom you were successful?

A. He was—I would not call him one of the 125, but it was a case where we were successful, where he had a contract, but he is not one of the 125.

Q. You did not confine your efforts to obtain a means of handling the Crowell publications to these 125—you tried outside of them?

A. Did not confine it to those?

Q. Yes.

A. Oh, no.

Q. You made efforts to reach others besides the 125—is that the fact?

A. Yes, sir.

Q. When did you first initiate these efforts—when did they first start?

A. Well, the case of Eric Nelson was the earliest I could recall, and that was before "Every Week" started as a publication—when we were making our arrangements.

Q. When was that, approximately?

A. April or May, 1915.

Q. You spoke of not being successful with Nelson at Omaha, Nebraska, and Schaffer of Pittsburgh?

A. Yes, sir.

Q. They were two men of the 125 agents that you spoke of, that were formerly engaged in the newspaper business?

A. Yes, sir.

Q. Do you know when Nelson and Schaffer engaged in the business of circulating your newspapers—distributing your newspapers?

A. Nelson—I recall when he took the agency out there. It is a good many years ago. I could not specify what year. It may be fifteen or eighteen years ago. It may have been either further back than that.

Q. I only want the approximate date.

A. Yes, sir.

Q. How about Schaffer?

A. I cannot answer as to when he started there.

Q. When was this association, consisting of 125 agencies, formed?

A. That was not an association.

Q. No; the association obtained these agencies and devised a scheme by which they would distribute the various papers through the 125 agencies—is not that correct?

A. Yes, sir; it was about 1904, I should say. It may have been a year or two earlier than that.

Q. That is approximately the time?

A. Yes, sir.

Q. Would you say that the 125 agents who were handling the newspapers that you referred to, were started in business about 1904?

A. These 125?

Q. Yes.

A. Oh, no; the agencies. They changed hands

very frequently, but the agencies had been in existence practically as long as the paper circulated. It was not a new organization built up. The papers have always been sold by wholesalers, but the particular thing we did in that association was to consolidate, in the hands of one man, where the business was scattered. In some cases, it was in the hands of one man, and in that case it was not necessary to consolidate, but where it was scattered, it was consolidated into one hand.

Q. When this consolidation was made, which resulted in the handling of the business by 125 agencies, you think that was about 1904?

A. It may have been. The fact of the matter is we would get together and have meetings and bust up into a row and get together again. So it was a case of off again, on again.

MR. WELCH: That is all.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. Your plan was, as I understand it, then, to consolidate the dealers—to put the papers into the hands of one man in each city—is that correct?

A. Yes, sir.

Q. Therefore, you were distributing all these papers through one wholesaler—is that correct—in these various cities that you described?

A. Yes, sir.

Q. And he was, in the main, the only wholesaler who was there?

A. Generally so; yes, sir.

MR. DALY: That is all.

MR. WELCH: That is all.

EXAMINER MOORE: We will take a recess now until two o'clock.

(Whereupon, at 12.45 o'clock P. M., a recess was taken until 2 o'clock P. M. of the same day.)

AFTER RECESS

(The hearing was resumed at 2.20 o'clock P. M., after the noon recess.)

EXAMINER MOORE: Proceed, gentlemen.

HARRY L. WELKER was called as a witness on behalf of the Commission, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Please give your address.

A. 381 Fourth Avenue.

Q. New York City?

A. Yes, sir.

Q. What is your occupation, Mr. Welker?

A. I have charge of the combined sales of "Every Week," the "Woman's Home Companion" and the "American Magazine."

Q. How long have you been in that capacity with the Crowell Company?

A. Since October of last year.

Q. In the course of your business, is it necessary for you to travel around the country?

A. Occasionally; yes, sir.

Q. Will you explain to the Examiner how you operate in order to promote your end of the business?

A. We have two methods; first, the sale of our magazines direct to boys, where we do not have a retailer acting as a wholesale distributor to the boys. We also reach the boys through the appointment of retail dealers in the larger cities, who act as wholesale distributors.

Q. Then you interview the wholesale dealers, do you, throughout the country?

A. Yes, sir.

Q. How extensively have you done that?

A. On "Every Week," I have travelled as far west as the Mississippi River, as far south as the Ohio River, and as far north as Michigan.

Q. All of the time representing your company in that capacity?

A. Yes, sir; let me add there that I also travelled in that same capacity for "Every Week" alone, before it was taken over by the Crowell Company a year ago last month.

Q. What was that—I did not hear that?

A. I say I also travelled in that same capacity for "Every Week" alone, before it was taken over by the Crowell Company a year ago last month.

Q. Pushing the sale of "Every Week" to these wholesalers, what success did you have?

A. Until we started operating through these retail dealers, acting as wholesalers, I was not as successful as I wished to be.

Q. You spoke of retailers acting as wholesalers. Will you describe those men to the Examiner?

A. Well, take, for example, our agent in Reading, Pennsylvania, who is essentially a retail news dealer, and who was appointed by one of our traveling men to act in the capacity of boy distributor. He wholesales only our publications, and was induced to enter this phase of the work by one of our traveling men.

Q. Then the retailers that you are describing here are distinguished from the independent wholesalers that were described on the stand by Mr. Beck this morning?

A. Yes, sir.

Q. Do you sell direct to these retailers?

A. Through the American News Company.

Q. And you deal direct with the boys—is that correct?

A. Not direct with the boys—the boys are supplied by the wholesalers. We reach those boys through the wholesale agents.

Q. Through the wholesale agent?

A. Yes, sir.

Q. That is, where you have one?

A. Yes, sir; otherwise we go direct to the boys.

Q. The wholesalers that you are speaking about, then, are converted retailers?

A. Yes.

Q. That you have built up by your operations?

A. Yes, sir; generally speaking.

Q. Are they boys?

A. No, sir; in most cases they are retail newsdealers who sell magazines to the readers direct, rather than through any intermediary, such as boys.

Q. What is the whole situation—go ahead and explain that.

A. The wholesalers, of whom we are speaking are, in most cases, retail news dealers, to whom our men have gone and induced them to enter into the distributing phase of the work—something entirely new to them. Before our men go to them, they are generally engaged in selling magazines, newspapers, candy, stationery, et cetera, at retail.

Q. Now, on the other hand, the independent wholesaler—what does he deal in?

A. The independent wholesaler deals in newspapers primarily, and magazines—some of them do a jobbing business in candy and gum, that is, in addition to their line, of recent years.

Q. In your experience, in working up this business for your company, what condition did you find with the independent wholesaler by which you got business, or by which you did not get it?

A. The general condition among the independent

wholesalers was that they were obliged to refrain from taking on our publications.

Q. For what reason?

A. Because of their Curtis contract.

Q. Were those the reasons that were assigned to you in all cases where they refused to take on your business?

A. Yes, sir.

Q. Can you cite any specific instances, where independent wholesalers refused to take on your magazines, because of this contract of the Curtis Publishing Company with them?

A. I can cite instances either of that nature, or where they did take them on and immediately gave up the agency.

Q. Give all the circumstances and facts surrounding instances of that character.

A. Well, Mike Goodman of Scranton, Pennsylvania.

Q. What happened at Scranton?

A. Mike Goodman came to New York and solicited our agency, and it was given to him, and he had it, I think, about three weeks, at which time he notified us that it would be impossible for him to continue handling it on account of his Curtis connection.

Q. Did you know Mr. Harry A. Braelow, of the Newark News Dealers' Supply Company of Newark, New Jersey?

A. Yes, sir.

Q. Did you make any effort to get him to transact business for you?

A. We secured the services of Mr. Braelow.

Q. About when was that?

A. About 1915, I think.

Q. Did he continue to handle your magazines for any length of time?

A. He is still handling them.

Q. Was he or not notified to quit?

A. Yes, sir.

Q. By whom?

A. By the Curtis Publishing Company.

Q. What other instances have you, Mr. Welker?

A. The Wilkes-Barre, Pennsylvania, situation—William Kessler. Mr. Kessler came to New York with Mr. Goodman of Scranton, and I made the arrangement with him at the same time, and received notice of his cancellation, about the same time.

Q. About when was that—approximately what year—can you remember the year?

A. That was early in 1916.

Q. Have you any other instances? Give these instances and the facts and circumstances surrounding them.

A. In New Brunswick, New Jersey, Schneider Brothers took on our agency and gave it up. At Morristown, New Jersey, S. S. Sankin——

Q. Did they give reasons for giving it up?

A. The same reasons.

Q. Go ahead.

A. At Rahway, New Jersey; Elmer Higgins had our agency and gave it up for the same reason; in Columbus, Ohio, Scott-Krauss refused to accept our agency for the same reason; Arthur Bell, of Springfield, Ohio, refused to accept our agency for the same reason; in Cleveland, Ohio, Henry Solomon had our agency twice, and was obliged to give it up twice for the same reason; in Ann Arbor, Michigan, Harvey Stofflet had our agency and was obliged to give it up for the same reason; in Lincoln, Nebraska, J. C. Orcutt & Company had our agency——

Q. Is he the only wholesaler in Lincoln, Nebraska?

A. As far as I know. He gave up our agency for the same reason; in Harrisburg, Pennsylvania—I do

not remember the agent's name there, but he gave his reason for not accepting the agency, his Curtis contract.

Q. Is he one of the men who gave up the agency or one of the men who would not accept the agency?

A. He would not accept it. It is probable, in quoting you these towns I may have mixed in a few of these reasons either given to our road man or sent in by mail. In handling so many of these different situations, it is hard to keep them divided.

By Mr. Welch:

Q. These reasons were not given direct to you?

A. I say possibly I may have confused—I may be confused in some of them, and I may have given some of those sent to me by reports through the mails from the agents themselves, or from my roadmen.

By Mr. Daly:

Q. Now, going back to Mr. Braelow, do you know anything about the situation—is Braelow still in business there?

A. Yes, sir.

Q. How long has he been operating under the name of the Newark News Dealers' Supply Company?

A. The company was reorganized last month.

Q. What do you mean by that?

A. Oh, a change in the personnel, but as far as my recollection goes, he has always operated under that name. It is a corporation, as I understand it.

Q. Do you know of your own knowledge, why this company was reorganized?

A. Due to the dropping out of one of the members.

Q. Due to the dropping out of one of the members?

A. Yes, sir.

Q. Who was that member?

A. Charles Harmon.

Q. Now, have you cited, in the main, the instances that you have in your mind relative to this situation—have you cited all that you can recollect or not?

A. No; Chester A. Place, of Austin, Texas, replied by mail that he could not accept our agency because of his Curtis contract. I do not remember the name of the man in Oklahoma City, but——

Q. Just a moment: now, you are testifying about Mr. Place, at Austin, Texas.

A. Yes, sir.

Q. Is this a letter that Mr. Place wrote to you in reference to that matter? (Handing paper to witness.)

A. Yes, sir.

MR. WELCH: Have you any letter from the Curtis Company on this?

MR. SPIESS: We do not have it at hand. We have asked your company to produce it.

MR. MILBURN: It is there, surely.

MR. WELCH: I have no doubt that the Curtis people did refuse to give their permission, but I would not like to admit anything until we have the letter from the Curtis Publishing Company. Cannot you mark these for identification, and reserve them until later?

MR. DALY: Very well; these may be marked for identification.

(The letter referred to was thereupon marked by the stenographer, "Commission's Exhibit C" for identification.)

MR. DALY: We have a number of letters of similar import, which I ask may be marked for identification, "Commission's Exhibits D, E, F and G."

(The papers referred to were thereupon received and marked by the stenographer, "Commission's Exhibits D, E, F and G," respectively, for identification.)

By MR. DALY:

Q. I show you a letter addressed to you from J. C. Dreher, of Battle Creek, Michigan, dated January 26th, 1917.

A. Yes, sir.

Q. Did you receive that letter?

A. Yes, sir.

MR. DALY: We offer that letter in evidence.

(The letter referred to was thereupon received in evidence and marked by the stenographer "Commission's Exhibit F.")

By MR. DALY:

Q. I show you a letter from Harold Sanborn, of Denver, Colorado, addressed to you on this same subject, dated November 27th, 1916. Did you receive that letter?

A. Yes, sir.

MR. DALY: I now hand the stenographer ten letters, and ask that he mark them for identification, respectively, "Commission's Exhibits H, I, J, K, L, M, N, O, P and Q."

(The stenographer thereupon marked the letters referred to "Commission's Exhibits H, I, J, K, L, M, N, O, P and Q," respectively, for identification.)

By MR. DALY:

Q. Have you any others to add to this list, Mr. Welker?

A. Baron & Molaskey, of St. Louis, Missouri.

Q. What did they do about this matter?

A. They refused to accept the agency for "Every Week," on account of their affiliations with the Curtis Publishing Company.

Q. Were they the only wholesalers in St. Louis?

A. They are the only ones covering the entire city, whom I have any knowledge of.

Q. They have very efficient methods of distribution, have they?

A. Yes, sir.

Q. What character of magazines do they handle?

A. I think they carry about the same line of periodicals that most of the wholesalers do—whatever is for distribution in that manner, such as "Hearst's Magazine," "Cosmopolitan," "Good Housekeeping," "Motor Boating" and "Motoring."

Q. Do they handle newspapers as well?

A. I cannot state, nor can I state definitely of my own knowledge, what periodicals they do handle.

Q. What else have you?

A. J. L. Tennebaum, of Atlanta, Georgia, did not accept our agency for the same reason.

Q. Is he a large wholesaler in Atlanta?

A. Yes, sir.

Q. And is he equipped to take care of the business of the whole city?

A. He is the only wholesaler I know of in Atlanta. Then there is C. C. Hall, of Kalamazoo, Michigan.

Q. By the way, he handles the average magazines?

A. Yes, sir.

Q. And Tennebaum handles newspapers?

A. I do not know.

Q. Go ahead.

A. My recollection is that Mr. Hall took our agency and was obliged to give it up on account of the Curtis contract.

Q. About when was that?

A. I think that was October or November, 1916.

Q. Is he the large wholesaler there?

A. Yes, sir.

Q. If you will state that in every case, it will save my asking questions.

A. Leo R. Daines. I think he is in Albion, Michi-

gan. He is the local distributor there for newspapers and magazines. He had our agency and wrote us that because of the objections on the part of the Curtis Company, he would have to discontinue handling "Every Week."

Q. Was that since you have been with the Crowell Company?

A. I would say that was in December, 1916. I do not remember these exactly.

Q. Proceed.

A. Harold R. Sanborn, of Denver, Colorado, had our agency and was obliged to give it up on account of Curtis objections, and subsequently took it up after he had discontinued handling Curtis publications. That is my recollection, that he wrote he had given up the Curtis agency, and was at liberty to take ours.

In Akron, Ohio, Mr. Alvis—I do not remember his initials—had our agency.

Q. He was also the Curtis agent?

A. Yes; and a distributor in that city. He gave it up because of the Curtis objections. Arthur Misch, of Sandusky, Ohio, refused to take on "Every Week" on account of his Curtis contract. He is the only distributor I know of in Sandusky.

Q. And handles all their magazines?

A. Yes; and newspapers.

Q. And covers the whole city?

A. Yes, sir.

Q. Proceed.

A. In Toledo, Ohio, the agent, I think, operates under the name of The Maumee News Company. He had our agency and gave it up because of objections from the Curtis Publishing Company.

By Mr. Welch:

Q. Can you give the dates?

A. No, sir; I cannot give the dates on these, be-

cause there are so many cases at varying intervals. There are a considerable number of others that do not occur to my mind at the present time.

By MR. DALY:

Q. Now, you have testified that you were shut out of that wholesale agency field. If you had access to those agencies, could you or not increase your circulation rapidly?

MR. WELCH: I object to that question as calling for a conclusion on the part of the witness.

MR. DALY: I withdraw that question then.

By MR. DALY:

Q. If the restrictions in this contract were not there, would it affect your circulation or not?

MR. WELCH: I object to it on the same ground; it is precisely the same question. It is calling for a mere conclusion of this witness, and it is a very important matter in this case, and it should be proved, I submit, by proper proof, and not by conclusions of the witness.

MR. DALY: I withdraw that question.

By MR. DALY:

Q. What sort of field would be open in the event these restrictions were not in these contracts?

MR. WELCH: I object.

THE WITNESS: The field would be entirely open.

MR. WELCH: I withdraw my objection.

MR. DALY: That is all.

EXAMINER MOORE: You may cross-examine.

CROSS-EXAMINATION.

By MR. WELCH:

Q. Now, Mr. Welker, you said one of your means of distribution was to sell direct to boys where there were no retailers, did you not?

A. I said we sold direct to boys where there were no retailers acting as a wholesale distributor.

Q. That is what I said.

A. Yes, sir.

Q. How do you reach those boys?

A. Originally?

Q. How do you reach them?

A. Direct from our home office.

Q. How do you get your orders?

A. By mail.

Q. Each boy sends in his separate orders?

A. Yes, sir.

Q. How many are there of those boys?

MR. WALSH: Wait a minute.

MR. WELCH: Is there any objection to that?

MR. DALY: I object to that. Unless counsel can show the relevancy of that question, as to how many boys this competing firm had, it does not seem to me to throw any light on this case. What would that show?

MR. WELCH: Mr. Daly, I am not trying to show anything in this case by questions of that sort. I am cross-examining the witness, who has already testified they sold their magazines through boys. Now, can a witness testify as to a fact and then shut up on the details of that fact? I would like to know to what extent this testimony covers boys, whether it is a large extent or a small extent. I am entitled, I think, to have it on the record.

MR. DALY: I withdraw the objection.

EXAMINER MOORE: You may answer the question.

THE WITNESS: Please read the question.

(The stenographer repeated the question as follows: "Q. How many are there of those boys?")

THE WITNESS: That branch of the work is handled at our Springfield plant. I am not in a position to give figures on that, because it is not under my immediate control at the present time.

By MR. WELCH:

Q. You do not know?

A. No, sir.

By MR. MILBURN:

Q. Could you approximate it?

A. No, sir; I could not even do that.

By MR. WELCH:

Q. You would not say whether it is 100 or 500?

A. I would not attempt to give a figure, because I would not know how far off I was.

Q. Now, you spoke of selling your magazines to boys through these retail dealers who are acting as your wholesalers, and you mentioned your Reading, Pennsylvania, agent as handling only Crowell's publications.

A. No; not as handling only Crowell publications.

Q. As wholesalers?

A. As selling only our magazines to boys, as far as I know.

Q. He wholesales only your magazines?

A. As far as I know.

Q. Have you any restrictive arrangement with him, as far as you know?

A. Absolutely none.

Q. Those men are men who were retail news dealers, as I understand it, and whom you induced from time to time to act as wholesalers for the Crowell Publishing Company?

A. Yes; in the majority of cases they are.

Q. In the majority of cases they are?

A. Yes, sir.

Q. Do you sell your magazines direct to those men?

A. Through the American News Company.

Q. Do you know whether they pay for the magazines and then sell them to boys?

A. They do, yes, sir.

Q. And would you estimate the number to be about 200?

A. Approximately that, I should say. That is not, however, 200 towns.

Q. I understand; 200 wholesalers. Those men, up to the time you induced them to engage in that wholesale work, had only been doing retail news business?

A. The majority of them, yes, sir.

Q. You remember about when it was that you got these men or commenced to get these retail news dealers to handle your publications wholesale?

A. I should say about a year ago we started.

Q. About when?

A. About a year ago.

Q. And in that year you have gotten approximately 200——

A. Yes, sir.

Q. Retail newsdealers to handle your magazines at wholesale?

A. In a majority of cases they are.

Q. In the majority of cases?

A. Yes, sir.

Q. Will you just specify, in a general way, how broad a territory those approximately 200 men cover?

A. Well, the majority of them are located east of Chicago.

Q. In various cities and towns?

A. Yes; sometimes we have more than one in a town; so that does not represent 200 towns covered.

Q. More than one wholesaler in a town?

A. Yes, sir.

Q. Do you know of any town where you have more than one wholesaler?

A. Pittsburgh, Pennsylvania.

Q. Those men are in direct touch with you, I presume, are they not?

A. In a way they are.

Q. Now, you have spoken of independent wholesalers, that you have interviewed throughout the country. You spoke of them as a class. Are you familiar with the Curtis Publishing Company's system of district agencies?

A. Yes.

Q. Are the independent wholesalers that you referred to the Curtis Publishing Company's district agents, in most cases?

A. Yes, sir.

Q. You were formerly employed by the Curtis Publishing Company, were you not?

A. Yes, sir.

Q. In what capacity?

A. First as side line salesman, and afterwards as district manager.

Q. And your duties as district manager were to go around and visit the various agencies from time to time?

A. Very seldom.

Q. So, you knew who the Curtis Publishing Company's district agents were, in a great many instances, throughout the country?

A. Naturally.

Q. Will you tell me what you mean by the expression, "independent wholesaler," as used by you?

A. My interpretation of the term "independent wholesaler" is a man engaged in the wholesale distribution of newspapers and magazines.

Q. Would you call the persons who wholesale your

magazines, and who formerly were retail news dealers, independent wholesalers—would they come under your definition of independent wholesalers?

A. I would say they were on the verge of breaking into that class.

Q. You think if they could get a contract with the Curtis Publishing Company, they would break into that class?

A. I do not know that I would say that the fact they took on a Curtis contract would make them independent wholesalers. If they would take on some newspaper agencies, I would say they were.

Q. Would the fact they took on some newspaper agencies make them independent wholesalers?

A. I would say, in comparison to taking on a Curtis agency under that restrictive contract——

Q. I did not ask that. I move to strike out the answer and ask that the question be answered.

THE WITNESS: Will you please read the question?

(The stenographer repeated the question.)

A. Yes.

By MR. WELCH:

Q. Would the fact they took on other magazines make them independent wholesalers?

A. Even more so.

Q. They do not handle any other magazines wholesale?

A. The majority of them do not.

Q. Now, you had a number of interviews, you say, with various independent wholesalers, as designated by you, throughout the country, and some of them took on your publications and some refused to handle your publications on account of objections from the Curtis Publishing Company?

A. That is right.

Q. What did you do in those cases—in those cities where they refused to handle your publications for distribution?

A. I endeavored, first, to develop some one, either a boy or a newsdealer, as a boy distributor for us, and failing in that endeavor to get boys to handle them directly with the boys from the office.

Q. Did you make any effort to get retail news dealers to act as wholesalers for you, as in the 200 other instances?

A. I said, failing in that, we went direct to the boys.

Q. But you did get a number of retail dealers to handle your publications wholesale?

A. Yes; but if we were unable to do that, we endeavored to supply the boys direct.

Q. In what particular town were you unable to do that?

A. Well, we have been unable to make any permanent arrangements in Lincoln, Nebraska; Omaha, Nebraska; Kalamazoo, Michigan; Atlanta, Georgia; Ann Arbor, Michigan; Canton, Ohio—that is all that occurs to me at this moment.

Q. You say you could not make permanent arrangements. Did you try personally to make any permanent arrangements with those dealers in those cities?

A. In Canton, Ohio, I did. The others I covered either through mail or through carriers.

MR. DALY: I wish you would speak louder. I cannot hear you.

A. I said in Canton, Ohio, I did. The others I covered either through mail or through carriers.

By MR. WELCH:

Q. How many retail dealers did you approach in Canton—what was your endeavor?

A. Well, I think I tried—every dealer in downtown Canton. I do not know how many there are, but I think there are half a dozen. I made an arrangement with one of them which, I think, lasted about three weeks.

Q. Who terminated it?

A. It was terminated by the failure of the agent to secure results.

Q. Now, at Canton, Ohio, you say the agent did not accomplish results. Did you assist him in any way by advertising or engaging boys to assist him?

A. I wrote to Canton several times endeavoring to help this man, but because of the fact the Curtis agents control all the boys engaged in the delivery of newspapers and magazines through his affiliations, our man did not make any headway. Mr. Dewesse is a distributor for the local papers.

Q. Is that what your roadman was told?

A. No; that was his experience.

Q. His experience?

A. Yes, sir.

Q. You supplied Canton, Ohio, with the magazines through the American News Company, did you not?

A. To the retail dealers at that time we were making a distribution—this was before we started to ship copies for wholesaling to the boys.

Q. And were you not, at this time, also supplying your magazines to Canton, Ohio, through the American News Company?

A. The other news dealers in Canton——

Q. Can you not answer that question and give your explanation afterwards?

A. I can only answer that by the explanation.

Q. All right.

A. When this agency was established in Canton, the other news dealers placed their orders every week

with our wholesaler, and cut off their orders with the American News Company. That is my recollection of such condition.

Q. Then, why should not your circulation have been just as great then as before, through the American News Company?

A. Well——

Q. Why did those men make such a failure?

A. Because the total orders of these dealers were not enough to continue a wholesale agency in the face of his inability to secure a wider distribution through boys.

Q. In respect to Lincoln, Omaha, Kalamazoo, Atlanta and Ann Arbor, where you say the agents of your company could not make permanent agencies, which you heard by mail or through persons talking with them, do you know whether any efforts were made there to obtain retail news men to handle your magazines wholesale?

A. Yes, sir.

Q. What were those efforts and why were they not successful?

A. I cannot say that all of those towns had been covered by our roadmen, but you take Ann Arbor, our agency there changed hands either two or three times after Mr. Stofflet was obliged to give it up, and in spite of Mr. Stofflet's good will and——

Q. I did not ask that at all. I asked if you made any effort to obtain retail news dealers in those places to handle your magazines wholesale?

A. Yes, sir; wherever we had roadmen visit a town that has been done.

Q. At the time you said you could not make arrangements in those cities, your magazines were being distributed throughout those cities by the American News Company?

A. To the news dealers; yes, sir.

Q. To the news dealers?

A. Yes, sir.

Q. Do you remember when it was that you were so unsuccessful in making the arrangements in these towns?

A. I cannot give specific dates.

Q. I mean approximately.

A. I cannot give specific dates for any of them, because they started at varying intervals.

Q. When did you start and could not make satisfactory arrangements?

A. Some of those went back as far as a year or more.

Q. And during that time the American News Company was distributing "Every Week"?

A. To the news dealers; yes, sir.

Q. And its circulation increased right along up to the present time—is that a fact?

MR. DALY: There has been nothing in his testimony about an increase in circulation in those particular cities.

MR. WELCH: I am asking about the general circulation.

THE WITNESS: Of "Every Week"?

MR. WELCH: Yes.

THE WITNESS: Yes, I should say it has.

By MR. WELCH:

Q. Do you know anything about the history of these various agents that you have described as having taken on your magazines, and then given them up and having refused, as to what their business was formerly?

A. Well, so far as my knowledge of it goes, they have always been engaged in the wholesale distribution of newspapers and magazines.

Q. Do you not know that the majority of the men

who are acting as Curtis distributing agents did not wholesale magazines, but were only engaged in the newspaper business before they became Curtis agents?

MR. DALY: What was that question?

(The stenographer repeated the question as above recorded.)

MR. DALY: I object to that. There is nothing in the testimony that would justify a question of that character.

MR. WELCH: I withdraw that question.

By MR. WELCH:

Q. You spoke of Arthur Misch, of Sandusky, Ohio. You said he is the only distributor you know in that town. You do not mean there is no other man in Sandusky who does not or could not distribute magazines?

A. I mean that Arthur Misch was the only man I knew engaged in that work.

Q. The only man you knew?

A. The only man I have any knowledge of being engaged in that work.

Q. Is that same thing true of Alvis, of Akron, Ohio, when you said he was the distributor of the city —that is, as far as you know, is it not?

A. No; since my dealing with Mr. Alvis, there has been another distributor who established himself there.

Q. Then you would not say that he was the only distributor in the city?

A. Not at the present time.

Q. Was this other man in the newspaper business at all before he became a general distributor?

A. Who?

Q. The other distributor you spoke of?

A. Yes, sir.

Q. How long would you say he has been a distributor?

A. I could not say how long it has been.

Q. He may have been in business there as long as Alvis has—is not that the fact?

A. Not so far as my information goes.

Q. Do you know when it was you tried to get Alvis?

A. I should say a year and a half ago—possibly before that.

Q. In 1915 some time?

A. Yes, sir.

Q. You do not know whether the other distributor was in business or not; do you?

A. If he was, I could not locate him.

Q. Did you make any efforts to locate him?

A. Absolutely.

Q. How did you finally locate him?

A. By an application by mail from him for our agency.

Q. You said that J. C. Orcutt was the only wholesaler, as far as you knew, in Lincoln, Nebraska. I want to find out whether you mean to testify he is, in fact, the only wholesaler there, or he is the only wholesaler, as far as you know?

A. Perhaps I can explain that by saying that J. C. Orcutt & Company are the only wholesalers I was able to locate by personal canvass of the city on the occasion of my last visit to Lincoln.

Q. When was that?

A. I could not tell you.

Q. A year or two ago?

A. I should say so; yes, sir.

MR. WELCH: That is all.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. Mr. Welker, will you describe the difference between the facilities of these retail wholesalers that you

have been talking about, and the regular independent wholesaler, in the distribution of these magazines?

A. As a usual thing, the independent wholesaler has a central location from which he delivers his periodicals to his customers. He makes these deliveries by automobiles, horse and wagon, and hand trucks or boys —whatever system he may use—and some send bundles out on street cars.

Q. Who are the customers of these men?

A. The news dealers and boys that they supply. The retailer who acts in the same capacity for us usually has a small cigar——

MR. SPIESS: Just a moment.

By MR. DALY:

Q. These retailers only deliver to boys?

A. They deliver only to boys.

Q. What facilities do they have, then, for distributing your magazines?

A. Usually none. The boys come to their stores for them.

Q. As a rule, do they have automobiles and these facilities that you have described?

A. They do not, as a rule.

Q. Now, if you could have circulated your periodicals through these regular wholesale agencies that you have described, how would your circulation have been affected?

MR. WELCH: I object to that as calling for a conclusion from the witness. It is based on mere speculation and conjecture on the part of the witness.

MR. DALY: Mr. Examiner, I think the question is perfectly proper.

EXAMINER MOORE: Read the question.

(The stenographer repeated the question.)

EXAMINER MOORE: The objection is overruled.

MR. WELCH: I take an exception.

THE WITNESS: Our circulation would have increased.

By MR. DALY:

Q. Why would it have increased?

MR. WELCH: I object to that. I think that is a little too much.

By MR. DALY:

Q. Mr. Welker, you testified you were formerly in the employ of the Curtis Company?

A. Yes, sir.

Q. When were you with them?

A. I was in the home office June 6th, 1910, until January 1, I think, 1912.

Q. Were you familiar with this particular contract which has been introduced in evidence in this case, on file with them?

A. That contract I have not had an opportunity to see, sir.

Q. Look at that contract, and inspect section 13 (handing Exhibit A to the witness).

A. This is not the form of contract they were using when I was there.

Q. How does it differ from the one you had while you were there?

A. When I was there, my recollection is that they used separate contracts for each publication, and I think, making a comparison, I could not point out the specific differences between the contracts. Essentially, they seem to be the same.

Q. What about the exclusive provision of section 13 in this contract that I called your attention to?

A. That is essentially the same.

Q. Do you know Mr. Douglass, of the Curtis Publishing Company?

A. Yes, sir.

Q. Did you ever converse with him about this exclusive section—section 13—as to its origin?

A. Yes, sir.

Q. Will you relate the circumstances surrounding your conversation with Mr. Douglass about this contract—who is Mr. Douglass?

A. He is right over there (indicating Mr. Douglass).

Q. What relation does he bear to the Curtis Company?

A. Manager of the Sales Division and Circulation Department.

Q. Relate the circumstances and the conversation.

A. As far as I can recollect, it was in 1910.

MR. WELCH: Can you not give the date?

THE WITNESS: It was in 1910, as far as I can recollect, at which time there was a publication started called "The National Post." The promotion of the sales of this magazine was in the hands of a man named Ernest Lawson. "The National Post" attempted to secure distribution and sale through independent wholesale agents and boys, and was unable to do so because of the objections of the Curtis Company to their agents handling this publication. "The National Post" afterwards went out of business.

MR. MILBURN: Was unable to do so, or was enabled to do so?

THE WITNESS: It was unable. "The National Post" went out of business, and at that time—let me correct that—I think "The National Post" suspended publication when they found they could not secure the distribution, and at that time the Curtis contract was revised, and this clause, which now is No. 13, or essentially the same thing, was inserted in the contract. That provision of this

contract had been under consideration for some time and a meeting was called for the final consideration——

MR. WELCH: Are you giving Mr. Douglass's conversation with you, or yourself with him?

THE WITNESS: I am leading up to it.

MR. WELCH: I am asking for information.

THE WITNESS: I am leading up to it.

MR. WELCH: This is not his conversation?

THE WITNESS: No, sir. Mr. Douglass and I walked over to the Mechanical Building, where this conference was to be held, in the lunch room together. On the way over, Mr. Douglass asked what could be done to prevent a repetition of such a raid on our agents.

MR. WELCH: Asked whom?

THE WITNESS: Asked me—to prevent a repetition of this endeavor to use our organization—and I answered by asking why not put a clause into the contract making it necessary for them to secure the permission of the Curtis Company before accepting other agencies.

By MR. DALY:

Q. That was afterwards inserted, was it?

A. Yes; that is the substance of the conversation.

Q. That is the substance of the conversation?

A. Yes, sir; except that it was not taken seriously at first. I had proffered it entirely in an earnest desire to help, though.

Q. Was that all that Mr. Douglass said about it?

A. My recollection is that Mr. Douglass, when I suggested it, said—well, in effect he did not think such a contract could be made to stick.

MR. WELCH: What is that?

THE WITNESS: That he did not think such a clause would be good.

By Mr. Daly:

Q. It was afterwards adopted?

A. Yes, sir; it was afterwards adopted.

Q. Now, have you had any experience in the actual sale of magazines—personal sales handled on the street or not?

A. Why, I sold various periodicals when I was a boy.

Q. About when was that?

A. Well, I think I stopped that about 1904 or 1905—1894 or 1895.

Q. In comparison with the Curtis plan, what was your plan? Under what plan did you operate?

A. I bought my publications direct from the publishers and remitted to them each week with the orders and sent back the unsold copies, and got credit for them.

Q. Was that practically the same system as Curtis uses?

A. Yes, sir; practically.

Q. Where did you do that?

A. In Montpelier, Ohio——

Q. What papers did you sell?

A. The "Chicago Blade and Ledger," the "Utica Saturday Globe" and the "Pennsylvania Grip."

Q. What system did the "Chicago Blade and Ledger" use?

A. I handled my account with them the same as the others and remitted my orders and returned the unsold copies.

Q. Is that the same system that Curtis now uses?

A. Fundamentally it is.

Q. What character of publications were these that you handled—that the "Chicago Blade and Ledger" handled?

A. A cross between a magazine and a newspaper

—most of them. I also sold daily papers, but these I spoke of were weeklies.

The "Chicago Blade and Ledger" were two separate publications sold together for five cents. The "Ledger" was the magazine section, and the "Blade" the news section.

The "Pennsylvania Grip" also had a magazine section.

The "Utica Saturday Globe" was primarily a news magazine. It had world news in it rather than local.

Q. In Pittsburgh you testified about certain retailers. How many actual retailers did you have to put in there, in order to get a circulation—do you know?

A. Not offhand. I could not give the number. It is anywhere from fifteen up.

Q. Why was it necessary to put in so many?

A. Because Pittsburgh is divided up into various sections, and we endeavored to secure a distributor in each of these sections. They could not be covered by a lesser number of these smaller dealers, because they had no facilities for reaching the other sections of the city.

MR. DALY: That is all.

RE-CROSS-EXAMINATION.

By MR. WELCH:

Q. You have been asked whether the plan under which you distributed certain weekly papers and magazines was the same plan or system as the Curtis plan, and you answered "yes"; is that correct?

A. I think I also used the word "fundamentally" in my answer.

Q. Yes, fundamentally—that the plan that you were interested in and Curtis's plan were the same fundamentally?

A. Yes, sir.

Q. Now, I want you to describe what you understand the Curtis system to be, in making that answer.

A. The fundamentals of the Curtis plan are the remittance—prepayment of copies—and return of unsold copies for credit, in order to keep an agent's account balanced or prepaid.

Q. And it is in that respect your plan was similar to the Curtis plan—that is what you mean?

A. Yes, sir.

Q. I merely want to get it clear; that is all.

A. Yes, sir.

Q. You spoke of the "National Post" having attempted to secure the sale of this paper to agents and boys and that they were unable to do so, and that was before this clause 13 was inserted in the contract?

A. Yes, sir.

Q. Why were they unable to do so?

A. Because—on this particular point my mind is a little bit hazy—my recollection is that the same pressure was used on the agents to prevent their wholesaling that periodical as is now exercised under clause 13.

Q. When you referred in that statement to independent agents and boys, you meant the Curtis agents and Curtis boys, is not that so—that the "National Post" tried to get them?

A. In that particular case I think that an endeavor was made to use the Curtis organization as far as possible.

Q. Did I understand you to say that when you suggested to Mr. Douglass putting into the contract clause 13, that Mr. Douglass said he did not think the clause would be good?

A. In effect, that is what he said. I do not remember the exact phraseology.

Q. You stated that as his conversation. I want

to know how nearly correct that was. You said he stated he did not think such a clause would be good?

A. That is as near as I can recollect it.

Q. Did he say why it would not be good, in his opinion?

A. Yes; that he did not think it could be enforced.

Q. You mean it was contrary to any existing law?

A. That was the impression I received.

Q. That was merely the impression that you received?

A. Yes, sir.

Q. Not that it would not be any good because it would be impossible to enforce it as a practical matter?

A. No; the impression that was made on me by Mr. Douglass's remarks was that it was not a clause that could be enforced.

Q. As a practical matter?

A. No; as a legal matter.

Q. As a legal matter?

A. Yes, sir.

Q. Was that the end of the discussion about that?

A. Yes, sir.

Q. I wish you would give me the date, as near as you can, of that conversation.

A. I cannot give even the year, because I do not know whether the "National Post" attempted to circulate in 1910 or 1911.

Q. As near as you can state, 1910 or 1911?

A. Yes, sir.

Q. Where was the conversation?

A. On the way from Mr. Douglass's office, the second floor of the publication building to the lunchroom on the second floor of the Mechanical Building.

Q. The Mechanical Building?

A. Yes, sir; the Mechanical Building.

MR. WELCH: That is all.

MR. WELCH: Will Mr. Beck be here tomorrow?

MR. DALY: We will have this matter brought up again, or I presume the Examiner will. At least, we will call attention to it tomorrow. As I understand it, Mr. Beck was not able to find his attorney.

EXAMINER MOORE: Does that mean today, or what?

MR. DALY: Today; he is not able to find him. He will make further inquiries, as I understand, for him.

EXAMINER MOORE: Would you like to have him come tomorrow?

MR. WELCH: Yes; at any time after he sees his counsel.

EXAMINER MOORE: Before we adjourn this hearing, he will probably be here, and that will be satisfactory, whether tomorrow or the next day. He can come along any time he chooses.

MR. WELCH: Yes, before we adjourn here.

MR. DALY: Mr. Examiner, Mr. Beck says he will be ready to go on the stand either this afternoon or tomorrow, if that is satisfactory to you.

EXAMINER MOORE: Better make it tomorrow, had you not, Mr. Daly?

MR. DALY: Yes. Mr. Mackinnon is on the stand now.

---

B. A. MACKINNON, called as a witness on behalf of the Commission, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Give your full name and address, Mr. Mackinnon.

A. B. A. Mackinnon, 222 West Thirty-ninth Street.

Q. What is your first name?

A. Bergen.

Q. What is your business?

A. I am circulation director of the "Pictorial Review."

Q. How long have you been such director?

A. Ten years.

Q. Just what do you do, Mr. Mackinnon?

A. I have charge of the getting of the circulation for the magazine, and the supervision of the distribution of the magazine.

Q. What is the "Pictorial Review"?

A. A magazine for women and for the home.

Q. Will you give a description of that magazine? How is it made up?

A. It is made up of serial stories, short stories, special articles, and departments on household economics, fancy work, fashions.

Q. And to what type of people does it appeal?

A. The class that in this country we call the middle and better class.

Q. At what price is it sold?

A. It is sold at 15 cents per copy, $1.50 per year.

Q. Is it weekly or monthly?

A. Monthly.

Q. What circulation have you, Mr. Mackinnon?

A. The circulation is now 1,400,000 monthly.

Q. Are there competitors of your magazine?

A. Yes, sir.

Q. Will you name them?

A. "Ladies' Home Journal," "Woman's Home Companion," "Delineator."

Q. In what way or ways do you get your magazines to your customers?

A. We get it to the subscriber through the mail; to the news dealers by express, freight and mail.

Q. What do you mean by news dealers?

A. To the men who retail the magazines to the public.

Q. Prior to last March, how did you get your magazines to your customers? Through what source or agency, if any?

A. The subscriptions, of course, went through the mail, and the news-stand copies went through the American News Company.

Q. You have heard the testimony about the American News Company here today, have you not?

A. Yes, sir.

Q. Do you know how many distributing agencies it has?

A. Approximately sixty.

Q. And how does it distribute your magazines?

A. It shipped to those branches.

Q. What branches?

A. Branches of the American News Company throughout the United States and Canada, and from there it is redistributed to the retail dealer.

Q. Was your circulation satisfactory under that system, or not?

MR. WELCH: I object to that question.

MR. DALY: I will withdraw that question.

Q. Did you decide to make a change in your method of distribution?

A. Yes, sir.

Q. Why?

A. We believed after the investigation we had made——

MR. WELCH: I would like to object to that question as to the reasons of the witness for doing a thing. The question calls for the operation of his mind and his reasons for doing a thing. It is not a fact and it is not admissible as evidence.

MR. DALY: Mr. Examiner, he certainly can testify why he changed from one distributing agency to another, if he did it.

EXAMINER MOORE: Objection overruled.

MR. WELCH: Exception.

A. Because we had made an investigation which led us to believe that our circulation would be largely increased by making use of the independent distributor instead of the American News Company exclusively.

Q. Will you relate to the Examiner as to the investigation you made, all the facts about this investigation? Give all the facts about that investigation.

A. I had a number of men traveling on the road at the time, and they visited the cities of the country, the United States and Canada, and when they visited a city, they made it a point to see the wholesaler there and to find out from him what he thought he could do with the sale of "Pictorial Review," if we should use him as our distributor there instead of the American News Company.

Q. What wholesaler are you speaking about now?

A. The wholesalers in all of the various cities throughout the country.

Q. What have been termed in this proceeding as "independent wholesalers"?

A. Independent wholesalers.

Q. And you found what?

A. They were very enthusiastic about the prospect of getting our magazines, and made promises of very active and vigorous co-operation with us that would give us an increase in sales.

Q. Do you know about how many of these wholesalers there are in the United States?

A. I understand there are about 1400 or 1500.

Q. You have been with the "Pictorial Review" for about ten years, you have testified, Mr. Mackinnon; is that correct?

A. Yes, sir.

Q. And in the course of your magazine experience, did you or not, learn of this contract that the Curtis Publishing Company had with these wholesalers that you have testified about?

A. Yes, sir.

Q. What did you do about that contract?

A. I took the matter up with our attorney as to what was his opinion regarding the validity of that contract.

MR. WELCH: I object to any statements by his attorney as to the validity of this contract.

Q. What else did you do?

A. I endeavored to avoid friction with the Curtis Publishing Company, if it was possible to do so.

Q. Relate what you did about that.

A. I met Mr. Peacock, who is the Circulation Manager of the Curtis Publishing Company, when he was in New York.

Q. When was that, Mr. Mackinnon?

A. That was in October, a year ago. I told him what was in my mind about the idea of an independent distribution.

Q. What did you mean by "an independent distribution"?

A. I used the term "independent distribution" as distinguished from a distribution on an exclusive basis with the American News Company. I asked Mr. Peacock——

Q. Who is Mr. Peacock?

A. Circulation Manager of the Curtis Publishing Company. I asked him if there would be any friction with the Curtis Publishing Company if we broke away from the American News Company and started to go direct to the wholesalers. He told me that that was a matter of policy that he would have to discuss with his

people in Philadelphia before he could answer that, and he went back to Philadelphia and wrote me a letter.

Q. Is this the letter that you received from Mr. Peacock after your conversation with him on that subject? (Handing letter to witness.)

MR. DALY: Mr. Welch, will you look at that? (Handing letter to Mr. Welch.)

MR. WELCH: No objection.

MR. DALY: We offer this letter in evidence.

(The letter was received in evidence and marked by the stenographer "Commission's Exhibit R.")

Q. After the receipt of this letter, Mr. Mackinnon, what did you do with reference to the promoting of the circulation of your paper?

A. We continued to visit the wholesalers and to try to line them up to find out which man in each city was prepared to do business with us.

Q. You still, however, had not broken away from the American News Company; had you?

A. We have not.

Q. This investigation that you have made, was it prior to the time of talking with Mr. Peacock, or afterwards?

A. Some of it had been made prior to that time, and a great deal of it after that time.

Q. During this investigation, did you find anything with reference to the Curtis exclusive contract which has been put in evidence here?

A. So far as I know, the question never came up.

Q. In your conversations with the wholesale dealers, did they speak about that or not?

A. They did not.

Q. But they were anxious to handle your publication?

A. They were.

Q. When did you finally decide to notify, or what did you do with the American News Company?

A. We notified them finally on February 10th.

Q. What year?

A. 1917.

Q. You notified them as to what?

A. Under the contract with them, we were obliged to give them sixty days' notice to terminate the exclusive clause in their contracts.

Q. That your company had with them?

A. Yes. On February 10th, we notified them that sixty days from that date they would cease to be our exclusive distributors.

Q. You had decided then to go on and put in that independent proposition?

A. Yes, sir.

Q. What steps did you take then to put in this proposition?

A. Then we went on to close up the dealers and get a definite order and payment from them—a check for the first payment, the first order.

Q. Did you begin on a large scale to do that, or not?

A. Right away, immediately, we sent out letters all over the country, and had a staff of men covering the cities.

Q. How did you purpose dealing with these independent wholesalers?

A. Directly. The first thing we wanted was to get an order from them for the distribution of our magazine in that city, and a check covering the first order which would be a guarantee that they would go through with it.

Q. Did you have a contract with them or not?

A. We made no contract; just a sales proposition.

Q. What happened about this proposed plan that you were putting in?

A. Everything started off very well for a couple of days, and then we ran into a snag.

Q. What was that?

A. In the first place we discovered difficulty was at St. Louis, Missouri. Then my traveling representative came into that city, and when he called on Baron & Molasky, who are the wholesalers in that city, he was told that while they were very anxious to get the magazine, that they would have to, under their contract with the Curtis Publishing Company, ask for permission from Curtis Publishing Company. Our representative suggested that under the circumstances they wire Philadelphia as we felt confident that Curtis would give permission, in view of the letter which Mr. Peacock had written to me previously.

Q. The letter that is in evidence?

A. The letter that is in evidence, yes. Baron & Molasky sent such a wire, and the reply came back that they must not handle "Pictorial Review," that they could not give permission.

Q. Then what did you do about that?

A. I called Mr. Peacock on the telephone at Philadelphia, and told him the circumstances and expressed my surprise that Baron & Molasky should be withheld permission, and he told me that St. Louis was an exceptional case, that that was one of the cities where the agent was being paid a special bonus, and accordingly they had more interest in his services than they usually had, and for that reason they did not feel as if he should be allowed to handle "Pictorial Review" while drawing this subsidy from them.

We had some argument over the telephone, and I suggested that the sale of my magazine through Baron & Molasky might reduce for them the amount of bonus that they were paying to that concern, and he did not agree with me in that particular; but he said

that was just an isolated case, and when I pressed him to tell me how many we might expect to encounter of that kind, he said there would be five or six, that he could not say exactly how many, and I urged that he give me a list of those cities where they had special arrangements of that sort so that we could get our men to those points immediately, and endeavor to make some arrangement, if possible there, otherwise than through the agent, or distributor that was handling the Curtis publications, my idea being to avoid friction if it was possible to do so. He said he would take that matter up and he would write me later in the day about it, and he did so.

Q. Will you look at that letter (handing letter to witness)?

A. Yes, sir.

Q. Is that the letter you received?

A. That is the letter.

Q. That is the letter you received from Mr. Peacock with reference to that?

A. Yes, sir.

MR. DALY: We offer the letter in evidence.

MR. WELCH: No objection.

(The letter was marked "Commission's Exhibit S.")

Q. Did you have any other communication with Mr. Peacock at that time?

A. Yes, sir.

Q. Look at that letter (handing letter to witness).

A. That is in reply to my other letter.

MR. DALY: We offer this letter in evidence, letter dated February 16th.

MR. WELCH: No objection.

(The letter was received in evidence and marked by the stenographer "Commission's Exhibit T.")

By MR. DALY:

Q. After you received this letter from Mr. Peacock, did you do anything with reference to your circulation?

A. We kept right on just the same.

Q. With the wholesalers?

A. Getting the wholesalers just the same.

Q. Did you circularize them?

A. Yes, sir.

Q. Will you look at that circular letter (handing letter to witness)?

A. Yes, sir.

MR. DALY: We offer this letter in evidence, and in doing so, call attention to the paragraph on page 2, marked "A."

MR. WELCH: No objection.

(The letter was received and marked by the stenographer, "Commission's Exhibit U.")

By MR. DALY:

Q. You continued to push the business, you have testified?

A. Yes, sir.

Q. And you had out a large force?

A. Yes, sir.

Q. With what success? What were the results of your efforts in this direction, that you have testified about?

A. We ran into a good many difficulties. There were a number of wholesalers that could not take on the "Pictorial Review," because of the arrangement they had with the Curtis Publishing Company.

Q. Were there any considerable number of those? Tell all the facts about your efforts.

A. As I remember, there were about 150 that we could not get.

Q. Where are those 150 located?

A. All over the country.

Q. In large cities?

A. Mostly in large cities; in cities of over ten thousand or more, practically all of them.

Q. Did you hold all those that you got, or not?

A. No; some of them we lost since we started.

Q. Why did you lose them?

A. Coercion.

Q. In what respect?

A. By the Curtis Publishing Company.

Q. On account of this provision in the contract?

A. Yes.

Q. Was that the reason of their dropping away from you?

A. That is what they say.

MR. WELCH: Did I understand Mr. Mackinnon to say that he could get 150?

THE WITNESS: No; I said there were 150 that we could not get.

Q. Do you know how many you solicited?

A. We had a list of about a thousand names on the books that we went after, and in addition to that, in a number of cities we called on people whose names were not on that list, so I do not know what the total would be.

Q. Were the 1000 all under contract with Curtis, do you know?

A. I do not know. We never inquired whether a man was the Curtis distributor or not.

Q. Then you only would know whether he was or not, by being informed at the time. Is that correct?

A. That is correct.

Q. But these 150 informed you that they would not deal with you, owing to this contract they had with the Curtis Company; is that correct?

A. Yes, sir.

Q. Were these in large cities?

A. In large cities, yes, sir.

Q. Can you name some of them?

A. Why yes. Callahan in Albany; Ramroth at Troy; Schafer at Pittsburgh; Motz at Cincinnati; DeWolf at Indianapolis; Tennenbaum in Atlanta; Murphy at Tacoma; Cameron at St. Joseph, Missouri.

Q. Those are some of the large places, are they?

A. Yes; those are some of them.

Q. It has been testified in this case that in most instances there is but one large wholesaler in the various cities. Is that correct?

A. That is about correct.

Q. Did you then proceed to put in wholesalers in these cities where you could not obtain agents, or not?

A. In some cases, yes.

Q. With what success?

A. Considerable variation of events that might not be called successful at some points.

Q. What were the results of your efforts in that line?

A. We finally got a man pretty nearly in every place, but at considerable expense.

Q. Can they distribute your papers as efficiently as you could have distributed them through the wholesale agents?

A. No, sir.

MR. WELCH: I object to that and move to strike the answer out.

MR. DALY: I will withdraw the question.

MR. WELCH: I move that the answer be stricken out.

MR. DALY: Yes; strike that out; I am perfectly willing for that to go out.

Q. What machinery have these agents that you have established?

A. That we have established?

Q. Yes.

A. In most cases they have simply our one publication, and they have to rent, on publication day, machines to distribute the magazine, so that practically all we get out of it is the original distribution. We do not get any follow-up work or any promotion work. A man cannot afford to go around several times during the month when he only has the sale of one magazine to depend upon.

Q. Have you been able to build up large agencies?

A. Oh, no; we have not any large agencies.

Q. How many publications have you?

A. Just one.

Q. The "Pictorial Review"?

A. That is all.

Q. Knowing the magazine business as you do, is it possible to build up large wholesale agencies with one magazine?

A. It is not.

Q. Why?

A. There is not enough in the proposition to make it worth while. The expense of distribution more than takes up the profit there would be on one publication, particularly a monthly.

Q. Do you know Mr. Dreher at Battle Creek, Michigan?

A. Yes, sir.

Q. Will you look at that telegram (handing telegram to witness)?

A. Yes.

Q. Did you receive that telegram from him?

A. Yes, sir.

Mr. Daly: We offer this telegram in evidence.

MR. WELCH: No objection.

(The telegram was received and marked "Commission's Exhibit Z.")

By MR. DALY:

Q. Will you tell about the Dreher situation, what you know about it?

A. Mr. Dreher was one of the agents that we approached to handle "Pictorial Review." He placed an order with us, paid his money, and we shipped the copies, and he was notified by the Curtis Publishing Company that if he continued to handle "Pictorial Review," he would lose the agency for the Curtis publications. He told them that if that was the case, they would have to accept his resignation.

MR. MILBURN: May I interrupt just a moment? We said that he was bound by this contract, did we not? You knew that, did you not?

A. I knew that he had a Curtis contract.

MR. MILBURN: I just wanted that.

By MR. DALY:

Q. Do you know Mr. W. C. Norris, at Youngstown, Ohio?

A. Yes.

Q. Will you look at this letter (handing letter to witness)?

A. Yes, sir.

MR. WELCH: This is a letter written in pencil, and it is rather difficult to decipher. I do not see the materiality of it. We have no objection to this being marked for identification until we can check it up.

MR. DALY: Very well.

MR. WELCH: But we do object to the thing going in in any way unless the letter to which it is a reply is also produced.

By MR. DALY:

Q. Have you the letter, Mr. Mackinnon?

A. I suppose so, yes, sir.

MR. WELCH: Why not have it marked and let Mr. Mackinnon look it up?

MR. DALY: We will ask that this letter be marked for identification.

(The letter was received and marked for identification, "Commission's Exhibit W.")

EXAMINER MOORE: Do you not have this letter in your files, Mr. Welch?

MR. WELCH: No; it is a letter written to the agent at Youngstown, Ohio.

Q. Do you know whether or not this man was the Curtis agent at Youngstown?

A. I do not believe he is.

Q. You do not believe he is?

MR. WELCH: Then I object to the letter.

Q. I thought he was an agent.

A. You see what he speaks about there in the letter.

Q. It is from a customer, and what a customer says, and it has been marked for identification. It is why he refuses to deal. I do not know whether he is an agent or what he is.

MR. WELCH: He is not one of the Curtis agents, and of course we will object to any statements submitted by persons in that way without an opportunity to cross-examine them.

MR. DALY: We can take that up later.

By MR. DALY:

Q. I am not sure that you stated why you left the American News Company. Will you relate the facts as to why you left there, as a source of circulation?

A. We believed by using these independent distributors that we could get a large increase in circulation.

Q. Have you described the difference between the circulation of magazines through the independent wholesaler and through the American News Company? If you have not, I wish you would do it.

A. The American News Company have about sixty branches, and the magazines are shipped to those branches, and reshipped from there to the various retail dealers. In the case of the independent wholesalers, there are a larger number of those and they receive the magazine directly from the publisher, make distribution direct to the newsdealer in the cities where they are located, and collect from him.

Q. Do they come in close contact with the retailers or not?

A. Yes. As they are practically all daily newspaper men, they come in contact with practically every dealer in their territory every day.

Q. How about the American News Company in that respect?

A. The American News Company does not have an organization of that sort outside of the cities where their branches are located, and they never come in contact with the dealer except by mail. They ship the magazines to the dealer, and he keeps them for the selling period, and returns what he has not sold.

Q. Does that apply to a large part of the country, that system of distribution of the American News Company?

A. Oh, yes, covers the entire United States and Canada.

Q. Have you any other specific instance where dealers dropped out after you had made contracts with them?

A. Yes; we have had some instances of that sort.

Q. Can you recite some of those instances, some leading instances? Or all that you remember?

A. The Solomon News Company at Cleveland is one. He has been handling our magazine right up to and including the December issue, and has now discontinued. And Napoleon St. Marie, at St. Paul, Minnesota, who handled our magazines for a few months, and then discontinued them.

Q. Can you make any comparison of the expense of delivery through the American News Company and through the wholesaler?

A. It is much cheaper to do business directly with the wholesaler.

Q. In what respect? How is it cheaper?

A. You have no charge for returned or unsold copies, and you get a higher price from the wholesaler than from the retailer.

Q. What charges do the American News Company make in making the delivery? Is one a free delivery and the other a charge delivery, or not?

A. To the retailer, do you mean?

Q. Yes.

A. To the retailer in the cities where they are located, they make a charge of so much a week.

Q. Who does?

A. The branch of the American News Company located in that city makes a charge running all the way from twenty-five cents a week up to, in some cases, $2 or $3 for a delivery of magazines to that dealer's store. Out of the city, of course the charge there is the mail, or express rate.

Q. Do you have such a charge as that with independent dealers?

A. The independent wholesaler does not make a charge. We lay the magazines down in his towns for him prepaid, and he distributes to the dealer without charge. That gives the retailer a larger profit than where he gets it through the News Company.

Q. How about the charge for the returned copies, with the American News Company?

A. The American News Company make their charge which varies according to the publication, and the point where the magazines come back from, varying from 2½ to 3 cents a pound for all the copies not sold. Of course, there is no charge of that sort from the independent wholesaler.

Q. As I understand it, the American News Company delivers to the retailers, but does not follow up the delivery, do they?

A. No; they have in some places promotion men, but that work is very inefficient.

Q. There could be cases then, could there not, when a dealer, when he runs out of copies, would not get any more?

A. Yes, particularly outside of the cities where the branches are located.

Q. That would happen, would it?

A. That would happen.

Q. How about with the independent wholesaler?

A. The independent wholesaler is practically at every one of these stores every day, and if the dealer is out of copies, it is very easy to get them from him. He sees that the dealer is sold out and supplies him immediately right there.

MR. DALY: Mr. Examiner, there are a large number of letters that I would like to look through, and since it is about five o'clock, if it suits the Examiner and the gentlemen on the other side, I would suggest that we take a recess until to-morrow morning. I do not think there will be anything much, but I just want to check up and see what I have.

MR. WELCH: That is satisfactory.

EXAMINER MOORE: What time will it suit counsel to meet to-morrow?

MR. WELCH: Ten-thirty?

EXAMINER MOORE: Gentlemen, this hearing is moving rather slowly.

MR. WELCH: I think it will go faster tomorrow.

MR. DALY: We would like to wind up tomorrow, if possible.

MR. WALSH: Before we close tonight, and before the record closes, I would like the gentlemen on the other side to say on the record how many contracts are in existence with the Curtis Publishing Company, and its dealers or so-called agents such as are in the form of Exhibits A and B, offered in evidence.

MR. MILBURN: Approximately 1525. We said 1532 in our original affidavit, and it is approximately that number. There are about 1525.

MR. WALSH: Will it be also admitted that the Curtis Publishing Company disposes of all of its publications through dealers, or its so-called agents, and has disposed of them through such so-called agents or dealers under such a contract in the past few years?

MR. WELCH: Do you mean whether there is any other agency of distribution?

MR. WALSH: That is it exactly.

MR. WELCH: All you want is an admission that we do most of our business under this contract?

MR. WALSH: Exactly.

MR. WELCH: There is a little of it done through the American News Company.

MR. WALSH: What I want is to make up the record that you are doing practically your entire business through this contract which we allege here is a tieing contract, in violation of section 3.

MR. WELCH: Yes, practically all of it. They are doing a small portion—I do not know how much of it now, through another distributing agency.

MR. MILBURN: We have a number of other classes of agents that we supply direct.

MR. WELCH: The defendant reserves the right, of course, to make a further explanation when its case is put in.

EXAMINER MOORE: A recess will now be taken until ten o'clock tomorrow morning.

(Whereupon, at 5.00 o'clock P. M., on the 6th day of December, 1917, an adjournment of this hearing was taken to tomorrow, Friday, December 7th, 1917, at 10.00 A. M.)

---

## COMMISSION'S EXHIBITS OFFERED IN TESTIMONY OF DECEMBER 6, 1917.

---

### COMMISSION'S EXHIBIT A.

DISTRICT AGENCY AGREEMENT.

Form JDA3-a.

WHAT THE PUBLISHERS WILL DO

WITNESSETH, that the Publishers hereby covenant and agree:

*Territory*

1. To appoint the said Party of the Second Part as District Agent for THE SATURDAY EVENING POST, THE LADIES' HOME JOURNAL and THE COUNTRY GENTLEMAN, in and for the City of , State of , for the period hereinafter described, to commence either with THE SATURDAY EVENING POST

and THE COUNTRY GENTLEMAN dated , 19 , and with THE LADIES' HOME JOURNAL for the month of , 19 , or with later issues, at the option of the Publishers (this contract must be accompanied by one of the Company's order-blanks stating the number of copies desired of each of these issues);

*Rates*

2. To supply the District Agent with copies of THE SATURDAY EVENING POST and of THE COUNTRY GENTLEMAN at two and one-half cents (2½c.) each, and of THE LADIES' HOME JOURNAL at nine and three-quarters cents (9¾c.) each, transportation charges prepaid, provided that if the District Agent fail to prove himself entitled to the wholesale rates by wholesaling each publication to sub-agents, and by sending on time, the required fully itemized, sub-agent's sales reports, or if the District Agent fail to maintain a net sale of his quota of any one publication, as required by Clause 8, the Publishers may then charge three cents a copy for THE SATURDAY EVENING POST and for THE COUNTRY GENTLEMAN and eleven cents a copy for THE LADIES' HOME JOURNAL, or may, at their option, terminate the contract after thirty days' notice and appropriate the cash security;

*Returns*

3. To give credit to the District Agent, at the price paid, for unsold copies returned in accordance with the regulations governing returns, as stated on the order-blanks last issued by the Company;

*Shipments*

4. Of each publication to forward by mail, express or freight, at the option of the Publishers, copies ordered in advance, as hereinafter provided, at a time intended to secure delivery to the District Agent one day before the sale date, provided that the District Agent complies with Clause 10;

*Interest*

5. To pay the District Agent interest at five per cent. per annum upon the amount of the cash security remitted by him, as shown by Clause 16;

*Cash Refund*

6. To credit to the account of or to return to the District Agent after his fulfillment of his obligations under this agreement (of which the notice on the reverse side is a part), his cash security; provided, that if the District Agent should fail to do as agreed, then his cash security with any accumulated interest may be appropriated by the Publishers without notice.

WHAT THE DISTRICT AGENT WILL DO

WITNESSETH, that the District Agent hereby covenants and agrees:

*Prepayment*

7. To remit in advance, either according to the schedule on the printed order-blanks or by deposits sufficient to prepay for a month's supplies, and he hereby deposits with the Publishers $ as the first advance payment;

*Net Sales*

8. To sell at least copies of each issue of THE SATURDAY EVENING POST, at least copies of each issue of THE LADIES' HOME JOURNAL, and at least copies of each issue of THE COUNTRY GENTLEMAN;

*Sub-Agents*

9. To supply sub-agents, both boys and dealers, with THE SATURDAY EVENING POST, and THE COUNTRY GENTLEMAN at THREE CENTS a copy for re-sale at FIVE CENTS a copy, and with THE LADIES' HOME JOURNAL at ELEVEN CENTS a copy for re-sale at FIFTEEN CENTS a copy, and to make deliveries early on the morning of the sale date;

*Premature Sales*

10. To refrain from displaying, delivering or selling any copies to boys, dealers or retail customers BEFORE the authorized sale date, as specified on the printed order-blank furnished by the Publishers;

*Trespassing*

11. To refrain from selling any copies in any territory known to be controlled by another agent-under-contract;

*Imprints*

12. To prevent any firm or person from stamping or pasting any advertising notice upon any page of the District Agent's copies and from enclosing any advertising circular therein, provided that the District Agent or any sub-agent may stamp his name as agent for, or insert circulars intended solely to increase the sale of the Curtis publications;

*Other Periodicals*

13. To refrain hereafter from wholesaling to boys or dealers (and from attempting to influence any Curtis agent to sell) any periodicals other than those published by The Curtis Publishing Company, and to refrain from furnishing any other publisher or his agent with the names and addresses of any Curtis agents, without first obtaining the approval of the Publishers;

*Reports*

14. To send to the Home Office, on blanks furnished by the Publishers, not later than directed by the report blanks, reports itemizing the number of copies of each publication sold by each boy, dealer or other sub-agent, or sold at retail by the District Agent or his employees, and to distribute Prize Vouchers regularly to sub-agents, according to instructions from the Publishers, provided that Prize Vouchers shall be given to sub-agents only and are not re-

deemable by the District Agent nor by his relatives or salaried employees;

*Telegrams*

15. To pay any collect charge, not exceeding that for a ten-word telegram, from the Publishers, concerning any remittance not received by the Publishers, and more than two days late from the District Agent; and to send "collect" to the Publishers a code telegram of a length not exceeding ten words to trace any shipment of 100 or more copies not received on or before the last day train on the sale date FROM A FULLY PREPAID ORDER BY THE DISTRICT AGENT;

*Cash Security*

16. To permit the Publishers to retain, throughout the life of this agreement, possession of the $ herewith remitted by the District Agent as cash security for his performance of his several obligations hereunder.

HOW THIS AGREEMENT MAY BE TERMINATED

WITNESSETH, that it is further agreed and understood by and between the Publishers and the District Agent:

*Termination*

17. That this contract shall continue in full force and effect on the above terms for at least one year following the date of ratification;

*By Agent*

18. That the District Agent may withdraw from this contract either at the end of or within the year, and secure the return of his cash security with interest by doing ALL of these things: (a) By giving the Publishers THIRTY DAYS' NOTICE of his intention to withdraw; (b) by obtaining a successor satisfactory to the Publishers; (c) by obtaining and forwarding to the publishers the successor's signed contract, deposit and security; and (d) by giving all his right, title, interest and goodwill in the Curtis agency to the successor, including a written agreement to buy from the successor all copies the District Agent may thereafter order;

*By Publishers*

19. That the Publishers may terminate this contract without notice, in case of strike, fire, flood, earthquake, change in the postal rate or in the retail price of any one of the three publications; or may at any time terminate it by giving at least thirty days' notice before cutting off supplies and by returning the security with interest; or may cancel the contract and appropriate the cash security, should the District Agent fail either to sell the quota number given in Clause 8, for any one of the three publications, or fail in any other particular to do as herein agreed;

*Holding Over*

20. That if the Publishers send and the District Agent accepts, copies of one of the three publications of an issue later than the last within the first year of this agreement, then it shall continue in full force and effect for the SECOND year, upon the same terms and with the same withdrawal conditions as for the first year, and in the event of holding over for a third year, or longer, either may withdraw during or after the third year according to conditions in Clauses 18 and 19, respectively.

IN WITNESS WHEREOF, the Parties to these Presents have hereunto set their hands.

1. THE CURTIS PUBLISHING COMPANY (the Publishers),
by .....(Representative)
2..... (District Agent)
.....(Street)

| Names | WITNESSES | Street Addresses |
|---|---|---|
| 1..... | | ..... |
| 2..... | | ..... |

NOTICE—If the intending agent is a minor, the signature of his parent or guardian must appear as District Agent.

(Reverse Side of Commission's Exhibit A.)

ARTICLES OF AGREEMENT made this.....day of 19 , between The Curtis Publishing Company, Philadelphia, Pennsylvania, Party of the First Part, hereinafter referred to as the Publishers, and ..... City ..... State..... Party of the Second part, hereinafter referred to as the District Agent.

NOTICE TO THE INTENDING DISTRICT AGENT.

A sound business policy requires that we agree in advance upon terms to which each of us shall adhere.

Before you sign as our representative you are strongly urged to read and have a thorough understanding of each clause of this contract and of each requirement on the printed order-blanks in use by the Company.

No other than an officer of the Company is empowered to modify or alter in any detail the terms of either this contract or the Company's order-blank. No branch manager, no traveling representative or other field worker has such authority. It is understood that your acceptance of this contract is given only in consideration of the privileges detailed in the contract, not because of any additional verbal or other promises made by any person whomsoever.

Before you sign, understand that this contract places upon us no obligation to divert to you orders of any dealers who may now be obtaining copies of the Curtis publications from the American News Company, or any of its Branches; nor of any agents of the Home Pattern Company, or of certain Railway News Companies who may now be obtaining copies directly from our Home Office; nor does the contract contemplate our terminating the activities of any subscription representative who may now be soliciting or who may hereafter solicit in your city.

This contract is offered to you by the Publishers only because they believe Y-O-U are the right man for the place. It is understood that by accepting the contract you signify your intention of devoting your own time and personal attention to the management of the agency and that you will not lease or sublet to another or transfer the management of the agency to another in any way except as stipulated in the contract. Our

ratification of the proposed contract will not make the agency yours to barter or sell without our sanction. Our ratification of the proposed agreement will give you the rights specified in the contract—no more.

This contract will become binding upon the Publishers when received and ratified by the Home Office, not before.

THE CURTIS PUBLISHING COMPANY,
Sales Division, Circulation Department
Philadelphia, Pennsylvania.

8232B S140

---

## COMMISSION'S EXHIBIT B.

ORDER AND REMITTANCE FOR THE SATURDAY EVENING POST, THE COUNTRY GENTLEMAN, THE LADIES' HOME JOURNAL.

WHEN TO REMIT. Be sure to remit not later than the date given for your state upon the back of this blank. No copies can go forward to you unless paid for in advance. If your copies are to reach you on time they must be shipped from this office considerably in advance of the sale date. Your prepaid order must be in our hands before we can send to you. Study the other side.

HOW TO REMIT. Remittances in coin or currency should never be mailed unregistered. Money orders, express orders, checks on local banks, or Philadelphia, or New York drafts are safe. If you send stamps you will do so at your own risk. Remittances should never be sent in stamps, unless the stamps are carefully folded in paraffin paper, so that they will not stick together. Always mail your remittances and orders in our red-lettered envelopes, and they will receive earlier attention.

THE BEST WAY. All remittances for The Post, The Gentleman, or The Journal, are credited to one account, and the credit balance applied as prepayment for shipments of any publication that you regularly order. The trouble and expense of frequent remittances can be avoided by remitting a deposit sufficient to pay in advance for several issues of each publication. This plan, if tried, will result in prompt deliveries and satisfaction.

HOW WE SEND YOUR COPIES. Your copies will arrive in bundles with addressed labels on the wrappers. Save the labels, if you have occasion to complain of late arrival, miscount of copies, insecure wrapping, or the like. No claim of any kind can be allowed unless the label from the bundle is received with your original complaint.

SUBSCRIPTIONS must not be sent in the envelope containing your order or remittance for copies for retail sale; nor should you request us to charge subscriptions to your Sales account. Send subscriptions in separate envelopes, with a separate remittance, addressed to "Box 1624."

.....

Date .....

MY ORDER

In payment of the copies ordered below I enclose $....

THE SATURDAY EVENING POST

Number of copies ..... Of the issue dated .....

THE COUNTRY GENTLEMAN

Number of copies ..... Of the issue dated .....

THE LADIES' HOME JOURNAL

Number of copies ..... Of the issue dated .....

I understand that unless my changed order is received by you before the shipping day of the next issue of any publication, you will continue to send me

the number of copies of each publication that I have ordered above, provided the order is up to quota (for an agent-under-contract) and provided my credit is sufficient. I also understand that if the returns are to be used as part payment for the copies ordered, they must be mailed at least one week in advance of the date for mailing my order, as given upon the back of this sheet.

.....

THE OPENING DATES OF SALE.

The authorized date to open the sale of THE SATURDAY EVENING POST and THE COUNTRY GENTLEMAN is Thursday, except in the States of Oregon, Washington and Montana. The authorized date to open the sale of THE LADIES' HOME JOURNAL is the 20th of the month. Whenever the opening date falls upon a holiday nationally observed, copies may be placed on sale on the preceding working-day.

I DEFINITELY PROMISE TO OBSERVE STRICTLY THESE OPENING DATES.

Name .....

Street.....

Town ..... State .....

Post-Office

Sub-Station No. R. F. D. Box

.....

Be sure to write your full name and address plainly and carefully. Otherwise we shall not be able to identify your order.

(On back thereof):

TO OBTAIN YOUR COPIES ON TIME

If you receive your copies by Mail or Express, the number at the left of the name of your state shows in days how far before the sale date (Thursday) you should mail your remittance for THE POST and THE

GENTLEMAN. The number at the right of your state shows in days how far before the sale date (the 20th) your JOURNAL remittance should be mailed.

(Table of states).

Agents who receive copies by Freight must mail their POST and GENTLEMAN remittances two weeks in advance of the sale date and their JOURNAL remittances on the first of the month on which the JOURNAL sale date falls.

ILLUSTRATION OF MAILING SCHEDULE. If you live in California, your remittance for Post and Gentleman copies dated January 31st, 1914, should be mailed at your Post-Office not later than January 15th, 1914. The sale date of the January 31st Post is Thursday, January 29th. The fourteen days called for by the schedule brings the date for the mailing of Post-Gentleman remittances from California to January 15th. Your order for the February number of The Journal should be mailed, if you live in California, not later than January 1st, 1914, as the sale date for the February Journal is January 20th and the schedule requires that Journal remittances from California be mailed nineteen days in advance of the sale date.

IF YOU EXPECT CREDIT FOR UNSOLD COPIES OF ANY PUBLICATION—EACH OF THESE GENERAL RULES MUST BE CAREFULLY OBSERVED.

1. In making returns of any publication the full front covers must be sent to the Home Office. Clipped headings, date lines, half pages or inside pages will not be accepted for credit.

2. Only the covers of copies purchased by sales agents directly from the Home Office at the usual price are returnable for credit. Subscription copies, sample copies, sample covers, etc., are not returnable.

3. No agent-under-contract may expect credit for returns which, if credited, would reduce the net paid

number of copies of any issue below his contract quota for that publication.

4. Returns must be wrapped in a package separate from orders, remittances, or other matter, and forwarding charges must be fully prepaid. The package must be addressed to The Curtis Publishing Company, Box 1381, Philadelphia, Pennsylvania, by the use of one of the green return labels provided, and, in the space provided upon the label, the name of the sender must be clearly written. (If you are out of return labels, write for some immediately. In the meantime, write the Company's name and address upon the cover of the package, writing your name and address distinctly but in a less prominent position.)

Of The Country Gentleman you may send returns in any quantity, subject to the four regulations above, provided that all Country Gentleman returns must be mailed so as to reach the Home Office within two weeks of the date of issue.

Of The Saturday Evening Post you may return 15 per cent. of your drawings of any issue, subject to the four general regulations above; and further provided that all Post returns must be mailed so as to reach the Home Office within two weeks of the date of issue.

Of The Ladies' Home Journal you may return 10 per cent. of your drawings of any issue, subject to the four general regulations above; provided that for any three successive issues you will not expect credit for more than 7 per cent. of your total drawings of those issues; and further provided that Journal returns for which credit is expected must be mailed so as to reach the Home Office between the fifth and twelfth days of the second month following the opening sale date of the issue returned. (Example: Returns of the August, 1914, Journal should be received at the Home

COMMISSION'S EXHIBIT C.

CHESTER A. PLACE, JR.
WHOLESALE MAGAZINE DISTRIBUTOR
Austin, Texas.

April 25, 1916.

Every Week Corporation,
New York City.

(Stamped
Apr 29 1916)

Gentlemen:

I have just received a letter from The Curtis Publishing Company refusing me permission to accept the agency for Every Week; and my contract with them prevents my accepting other agencies without their consent.

I thank you for offering me the agency for Every Week, and I am sorry that I cannot accept it.

Yours very truly,

(Stamped
Answered
May 1 1916
H. L. W.)

(Sgd.) C. A. PLACE, JR.

---

May 2, 1916.

Mr. Chester A. Place, Jr.,
Austin,
Texas.

Dear Mr. Place:

I am sorry to learn that it is impossible for you to represent us in Austin, and will appreciate it if you will put me in touch with someone who can.

A stamped envelope is enclosed for your reply, which I will anticipate by return mail.

Sincerely yours,

EVERY WEEK CORPORATION,

*Manager, Sales Department.*

HLW/HTS

COMMISSION'S EXHIBIT E.

(Letterhead of Curtis Publishing Co.)

April 6, 1916.

*Attention of Mr. Harry A. Braelow*

The Newark Newsdealers Supply Company
196 Halsey Street,
Newark, New Jersey.

Gentlemen:

We received your telephone message as follows:

"We are anxious to keep on giving you the same consistent service as we have been giving you. Of course any action that you take cannot be objected to by our concern. We are in business to handle all publications and it is your privilege to take whatever action you may think necessary. We will continue handling any and all publications no matter what action you take. You have made the issue and we can only again repeat the answer given you in our letter of March 29th, 1916.

"Members of the Corporation
Newark Newsdealers Supply Co."

We have been very patient in our consideration of this matter. The facts are that in your agreement with us you agreed not to wholesale any periodicals other than ours except with our consent. Your cash bond with us is held subject to carrying out this and other items in the agreement.

We can only state that unless we receive your immediate assurance to discontinue the wholesaling of EVERY WEEK as required by your agreement, we shall consider your agreement violated and your cash bond forfeited. Such action would be most distasteful to us but it is the only course left open to us. Our representative, Mr. Van Pelt, is now in Newark and will call on you for your answer.

Upon failure to receive your assurance of the immediate discontinuance of the wholesaling of EVERY WEEK, we shall immediately discontinue our arrangement with you and transfer the agency to other hands.

Very truly yours,

THE CURTIS PUBLISHING COMPANY,
(Sgd) R. L. FLANDERS,
*Assistant Sales Manager.*

RLF BHL

---

COMMISSION'S EXHIBIT F.

BATTLE CREEK NEWS Co. Not Inc.
J. C. Dreher, Prop.
47 N. McCamly St.

Battle Creek, Mich.
Jan. 26th, 1917.

Mr. H. L. Welker, Sales Mgr.,
Every Week Corporation,
New York, N. Y.

Dear Sir:

The Curtis Publishing Company has ordered me to discontinue handling Every Week, indirectly as I now am.

Several months ago your Mr. Griggs was here and he told me that in case any trouble arose I should write you and perhaps some arrangement might be made by you so that I could continue with the Every Week and sever connections with the Curtis Company and still not lose the profit which I make on the latter.

When their representative called this week I told him that I would discontinue handling Every Week after February 19th and this was the only wise move for me to make. You being familiar with their con-

tract know that I am right. You may know that it was against my wish.

I will in the meantime try to get you an agent but with the understanding that in event a change is made that I can take back the agency. If your company and the Curtis People ever come together so that both can be handled in the same agency I would surely want your publications.

If it is worth while to you to make it an object to me I know of nothing that would prevent me from re-signing and getting my cash bond back from the Curtis Company. Of course I do not believe that it would be policy to do it too soon. I believe that other agents feel the same as I do.

Very truly yours,

(Sgd.) J. C. DREHER.

---

COMMISSION'S EXHIBIT G.

(On Postal Telegraph Company blank.)

12 P F 21 12 55 p m
C R Phila Pa 8

Harry A. Braelow
Newark News Dealers Supply Co.,
196 Halsey St.

If you contemplate acting inconsistent with clause thirteen your agreement with us we expect immediate notice that we may arrange accordingly.

THE CURTIS PUB. CO.

(All the above in handwriting.)

COMMISSION'S EXHIBIT H.

(On letterhead of Curtis Publishing Company.)

March 9, 1917.

Mr. R. S. Randall
The Benton Harbor News Company
180 Michigan Street,
Benton Harbor, Michigan.

Dear Mr. Randall:

In view of your letter dated March 5, we have changed our records so that they now show you as not handling EVERY WEEK.

Under all the circumstances, we believe our mutual interests will be best served by your advising with us before making any deal with them in case they communicate with you again.

With kind personal regards,

Very truly yours

THE CURTIS PUBLISHING COMPANY.
(Signed) J. F. DONNELLY,
*District Manager.*

Dictated by .
MED SM W. E. Douglas.

---

COMMISSION'S EXHIBIT I.

(On letterhead of Curtis Publishing Company.)

March 9, 1917.

Mr. R. S. Randall,
The Benton Harbor News Company,
150 Michigan Street,
Benton Harbor.

Dear Mr. Randall:

With respect to The Pictorial Review:

If you were to take on and wholesale The Pictorial

Review and at the same time continue to wholesale our publications, you would eventually have to neglect our interests or neglect theirs, or possibly both. For these reasons we cannot approve your taking the wholesale agency for The Pictorial Review.

That you may get our exact shade of meaning, let me quote from a letter recently mailed to a Curtis District Agent in another state, of whose loyalty to us we were not wholly confident as we are of your loyalty.

In this letter to the other District Agent we said:

> "If you undertake it (wholesaling the other periodical mentioned), directly or indirectly, we should wish to cancel your arrangements with us."

Within the course of a few days, we shall be pleased to have you tell us what you decide to do about wholesaling The Pictorial Review.

You may be interested to know that we are printing more than a half million copies of THE COUNTRY GENTLEMAN weekly. Next week's issue, to be specific, is 537,000 copies; and the bonuses of District Agents throughout the country are mounting skyward—some of them are now earning $15.00 to $25.00 weekly in COUNTRY GENTLEMAN bonuses in addition to their regular P-J-G commissions. We hope to see your COUNTRY GENTLEMAN bonus increase proportionately during months to follow.

Very truly yours,

THE CURTIS PUBLISHING COMPANY.

(Signed) J. F. DONNELLY,
*District Manager.*

Dictated by
MED SM

## COMMISSION'S EXHIBIT J.

HAROLD SANBORN
SANBORN MAGAZINE SERVICE
*Wholesale Magazines*
619 Nineteenth St. Phone Champa 785
Denver, Colo.

Mr. H. D. Welker,
c/o Everyweek Corporation,
New York City.

Dear Mr. Welker:

Replying to yours of the 18th concerning Crowell going independent, would say I thank you for your promise when the Crowell does take such a step.

Regarding the barrier of the Curtis Publications; I resent dictation as much as any person, and feel that their policy is short sighted and that it will have to change or their best agents will leave them. Of course, I cannot risk my Curtis Agency for the sake of the profits that Everyweek now pays as it would pretty near put me out of business to lose it but as I say I think things will be different some day.

I try to give good service and promote everything I handle, and our Curtis agency would go better if we had more magazines and our boys would be more satisfied if they had a chance to make more on each customer. There is room for all and if the Curtis continues to insist that it have the whole highway, it is pretty sure to get ditched.

Respectfully,

(Signed) HAROLD SANBORN.

## COMMISSION'S EXHIBIT L.

March 3, 1917.

Mr. R. S. Randall,
The Benton Harbor News Agency,
180 Michigan Street,
Benton Harbor, Michigan.

Dear Mr. Randall:

On October last we mailed you a letter of which a copy is inclosed. Notice that this was our reply to your inquiry concerning Every Week. We now understand that during the last two months you have been wholesaling Every Week in violation of Clause 13 of your contract with us in spite of our notice by letter dated October 3.

Our Mr. Reynolds, however, reports that you have agreed that hereafter, with respect to Every Week, you will stand by your contract with us. Assuming that your course with respect to Every Week will be as stated, we are disposed to pass that incident—"the mill won't grind with the water that has passed." But, we should like to know whether you now understand Clause 13 of your agreement with us and we feel that we should know also what your course will be with respect to that clause hereafter, should other periodical publishers approach you with similar offers.

One fundamental fact stands out prominently: There is a limit to the number of periodicals seeking circulation among readers of the same class which a District Agent can handle without taking on the limitations of a branch of the News Company. We have District Agents because we need representatives free from such limitations. You are our valued representative because you have heretofore been free from such limitations.

As you know from the long and very pleasant relations which have existed between us, our disposition

is to concede to your individual interest everything we can without sacrificing mutual interests.

We are much interested in any increased local effort for larger sales of THE COUNTRY GENTLEMAN and are willing and anxious to pay handsome, liberal bonuses for increases in net sales of THE COUNTRY GENTLEMAN during months to follow.

With kind personal regards,

Very truly yours,

THE CURTIS PUBLISHING COMPANY.
(Signed) J. F. DONNELLY,
*District Manager B.*

Dictated by
MED SM (Signed M. E. Douglas)

---

COMMISSION'S EXHIBIT M.

THE TREADWELL NEWS COMPANY

New Castle, Pa., March 26th, 1917.

The Crowell Publishing Co.,
New York.

(Copy)

Dear Sirs:

When your representative called on us asking us to represent your publications, we were glad indeed of the opportunity.

For the last 10 or 12 years we have represented The Curtis Publishing Co. and now have an organization which took years to establish. Since your methods of retailing Every Week are almost identical, in every detail, with those of The Curtis Publishing Co., you can readily see one Agent handling both publications would naturally lead to conflictions nor could we do

justice to you both. We have made effort to retain your Agency but The Curtis Publishing Co. advise would be direct violation of their contract. You may wonder why we did not consider these facts before accepting your Agency. To be frank, we wanted your Agency IF POSSIBLE but it seems not. Under the circumstances, which we regret, we ask you appoint another Agency here.

Let us hear from you by return mail.

Yours truly,

TREADWELL NEWS CO.
(Signed) J. T. RAY.

(Answered Apr. 24, 1917. H. L. W.)

---

(Form attached to Commission's Exhibit M is as follows):

Docket No.....

J. T. Ray — Name. New Castle, Pa. — City and State. ..... — Street and Number.

Subpoenaed { By mail / Personally } to appear.

On.....19,.. at 10:30 o'clock A. M. .....
Tel. number.

Attended....., 19.....

Testified....., 19...., at..... o'clock.

(In Pencil: Crowell-Welker)

COMMISSION'S EXHIBIT N.

(On letterhead of Benton Harbor News Company)

(Stamped: Mar 5-1917)

Benton Harbor, Mich., Mar. 2, 1917.

Circulation Department,
Every Week Corporation,
New York, New York.

Gentlemen:

Owing to the fact that the Curtis Publishing Company objects to our handling the Every Week, we will have to discontinue same.

We will try and get another agent for you in the city.

If the time ever comes whereby we can handle your magazine we shall be pleased to do so.

Yours respectfully,

(Signed) R. S. RANDALL.

(Stamped: Answered
Mar 8 1917
H. L. W.)

---

COMMISSION'S EXHIBIT O.

(On letterhead of Curtis Publishing Company.)

March 9, 1917.

Mr. R. S. Randall,
The Benton Harbor News Company,
180 Michigan Street,
Benton Harbor, Michigan.

Dear Mr. Randall:

In a recent letter you ask "What do you mean by limitations"—referring to the use of the word in the third paragraph of our letter dated March 3. We mean this:

When a wholesaler represents two publishers of competing publications, when that wholesaler tries to please both the publishers, he often finds himself in an embarrassing position. For the demands upon such a wholesaler, made by the several different publishers whose lines he handles, are apt to be beyond the wholesaler's ability to fulfill. Then, he must either favor one publisher and neglect the other or refuse to do for either what both ask.

The usual result in such a case is that the wholesaler loses one or both agencies because of the dissatisfaction of one or both publishers—because there is a limit to the number of periodicals seeking circulation among readers of the same class, which a District Agent can handle satisfactorily to several publishers.

It is for these reasons that we wrote you as we did on March 3.

Very truly yours,

THE CURTIS PUBLISHING COMPANY.
(Signed) J. F. DONNELLY,
*District Manager.*

Dictated by
MED SM

---

COMMISSION'S EXHIBIT P.

(On letterhead of Curtis Publishing Company)

March 9, 1917.

Mr. R. S. Randall,
The Benton Harbor News Company,
180 Michigan Street,
Benton Harbor, Michigan.

Dear Mr. Randall:

You ask for our approval of your undertaking to wholesale The Literary Digest.

We have no present objections to your wholesaling this publication to news dealers only; that is, provided you refrain from supplying copies to boys.

And, of course, if you were to furnish to these publishers or their representatives, any list of names of any retailers whom you now supply with our publications, the above approval would have to be withdrawn.

Moreover, we particularly advise that you do not make with these publishers any arrangement from which you could not withdraw on thirty days' notice; for if your arrangement with them should weaken your service with our publications or result in interference with our plans or policies, we should withdraw the conditional approval above given you.

While the idea of your divorcing your efforts to the above extent from our publications arouses no enthusiasm, nevertheless it looks as if you can, if you will, handle it in such a way as not to result to our disadvantage.

As before stated, our disposition is to concede to your individual interest everything we can without sacrificing mutual interests.

Very truly yours,

THE CURTIS PUBLISHING COMPANY,

(Signed) J. F. DONNELLY,

*District Manager.*

Dictated by
MED SM

---

COMMISSION'S EXHIBIT Q.

(Postal Card)

March 14, 1917.

Albion, Michigan.

Gentlemen:

I am compelled to ask you to release me from handling your agency in the future because of the Cur-

tis Publishing contract. I will appreciate your sending your man in at once and will do all that I can to get a satisfactory agent so that the circulation will not suffer.

Yours very truly,

R. A. DAINES.

---

## COMMISSION'S EXHIBIT R.

(On letterhead of Curtis Publishing Company)

October 3, 1916

Mr. B. A. Mackinnon
The Pictorial Review
New York City

Dear Mackinnon:

When I last saw you, I talked with you about the possible attitude of The Curtis Company in case a group of publishers including yourselves, The Crowell Company and The Metropolitan, should see fit to inaugurate an independent distribution: In what I said to you, I think I correctly expressed the attitude of the Company in regard to any distribution which might be made strictly among retail newsdealers. If, however, there was any attempt made to go after boys who are selling THE SATURDAY EVENING POST and the other Curtis publications, we would certainly put up a fight as we regard that end of the business as entirely our own and would resent interference just as much as a man who had taken out a patent on some new idea.

Of course, on the Hearst proposition, we made no attempt whatever to do any newsboy business, as I have personally never felt that the plan was feasible as applied to monthly magazines. I am sure that the only incentive for us to have included THE LADIES' HOME JOURNAL in the boy sale is because THE SATURDAY EVENING POST supports the boy organization and, thus

supported, it is possible to carry The Journal along. If, however, The Journal alone had been the only proposition, I am pretty sure there never would have been any boy organization.

I understand from Mr. Reed who is now back on the job that the Clapp Brothers are again operating—principally on The Pictorial, but that they are also taking a few subscriptions for our publications. Not having been bothered by these fellows while I was on the Hearst proposition, I have taken only a casual interest in their operating but I understand that they have been rather troublesome and extremely hard to put out of business. The number of complaints we are now receiving is hardly sufficient to warrant us in any expensive effort to go after them but I would be glad to know how you feel about the best method to put a permanent stop to their operations. I can't quite come to the conclusion that publishers have got to suffer for an indefinite length of time from the operations of these swindlers, especially publishers who have been troubled by them to the extent that you have.

What is this I hear about your giving half of your time from now on to the affairs of the Crowley Agency?

Sincerely yours,

(Signed) ROSCOE PEACOCK.

---

## COMMISSION'S EXHIBIT S.

February 13, 1917.

Mr. B. A. Mackinnon,
Pictorial Review Company,
New York City.

Dear Mackinnon:

Referring to our conversation today over the telephone, my impression has been until a comparatively

recent time that the Curtis Publishing Company would not be unduly concerned over independent distributing operations, so long as they did not involve an effort to interfere to any extent with the exclusive services which we possess among the boy-agents. I confess, however, that the multiplicity of propositions which have suddenly been launched with a view of securing the services of the so-called wholesalers who are under contract, and bound to us, has alarmed me, and it may well put a different face on the matter, especially when it comes to the circulation of publications which are genuine competitors both in respect to their make-up and amount of circulation. It looks to me now as though nearly every magazine which amounts to anything is attempting to distribute in a manner which has been confined to only two houses of the first rank, namely, Curtis and Hearst enterprises.

If we acquiesce in the efforts which they make to utilize these distributors, we may find our own interests will suffer, because it is a cinch these people cannot concentrate on our propositions to the extent that they have in the past, when they have got something like fifteen or twenty publications, all told, to worry about. We are certainly not looking for an opportunity to be disagreeable or disobliging, but I have got to conserve the interests of the Curtis Publishing Company, just as you would feel morally bound to conserve them, were you in my place—once I have been able to make up my mind pretty intelligently on what this thing is really going to mean for us.

The fact that these wholesalers would be making more money would not necessarily make them better agents for us, if they have got to divide their attention among so many different propositions.

Therefore, I will have to say to you as I shall have to say to all others, who are attempting to do business

with these people, that we must decide each individual case on its own merits. I do not feel that it is desirable to submit a list of towns, as you suggested, but rather that you go ahead with your plans, and we will decide on what action, if any, to take when the question comes up to us for decision in the regular way. That is the way we have handled all previous matters of this sort, and it seems to work out better than to attempt to lay down any hard and fast rule.

At the present time I understand that the following concerns with their various magazines are attempting to effect an independent distribution:

| | | |
|---|---|---|
| N. Y. Times, | 2 | publications |
| Curtis Publishing Company, | 3 | " |
| International Magazine Company, | 6 | " |
| Crowell Publishing Company, | 3 | " |
| Pictorial Review, | 1 | " |
| Literary Digest, | 1 | " |
| Franklin A. Munsey Company, | 4 | " |
| Collier's Weekly, | 1 | " |
| Newspapers, | too numerous to mention | |

As I said to you over the phone, it would only take a step or two beyond this to get us to a point where we would see the same situation, even if in a modified form, that we now have with the News Company, as regards promotion. Those of us who have been educated to the standards of the subscription book business know that a man can get out and talk one proposition best. Sometimes he can talk two or three propositions and get away with it, but when he goes beyond that, he generally falls down, and that is what we have got to think about over here.

Sincerely yours,

(Signed) ROSCOE PEACOCK.

## COMMISSION'S EXHIBIT T.

(Curtis Publishing Company Letterhead.)

February 16, 1917.

Mr. B. A. Mackinnon,
Pictorial Review,
New York City.

Dear Mackinnon:

The new elements and changes which are being introduced into the independent distributing efforts which are now in process are so kaleidoscopic that it would seem illogical for me to commit this Company on what its attitude is going to be. The interests of the Company as I see them, must be paramount to every other consideration. I cannot see around corners, and I do not see where we have anything to gain by attempting to agree to any policy toward other publishers at this time. We have played a lone hand in this game for years, and when I am urged to state just what our attitude is going to be, as I have been repeatedly by different people, I am forced to the conclusion that they are thinking a whole lot about their own interests and very little about those of the Curtis Publishing Company.

The manner in which the different interests are operating, the element of competition as regards the make-up of the magazines editorially, the variations in our arrangements with wholesalers, and the conditions prevailing in their territory—all combine to make it undesirable for us to attempt to come to any understanding with anybody.

When I told you how I felt about the competition which the Crowell Company seemed to offer in regard to our boy organization, you took no exception. In fact, I understood that you agreed with me as to the logic of it. After all, their plans involve only a varia-

tion of the general movement toward this independent distributing.

Therefore you will have to go ahead and do whatever you think best without seeking an understanding with us, and we will decide each case when it comes to a head.

Sincerely yours,

(Signed) ROSCOE PEACOCK.

---

COMMISSION'S EXHIBIT U.

(Letterhead of The Pictorial Review Company)

February 16, 1917.

MR. LIVE WHOLESALER:

I have decided to make Pictorial Review strictly non-returnable through all branches of the American News Company beginning with the May number, on sale April 10th.

We have notified the American News Company accordingly.

Do you want the agency for your city?

Price nine and three-quarters cents per copy, delivered, fully returnable within sixty days, but I shall expect you to protect our interests by holding your returns to ten per cent. or less.

Terms: Cash with order.

Last year and the year before, the May issue was the biggest selling issue of the year. It will unquestionably repeat, this year, for these reasons:

1. It will contain the final installment of Mrs. Norris's wonderful story which is selling like wildfire. Ask your dealers. They'll tell you more about it than I can in this space.

2. It will contain the opening instalment of Emerson Hough's new serial "The Broken Gate" which we are going to advertise extensively in other magazines and in newspapers all across the country.

3. It will contain the first glimpse of new styles for Summer.

4. It will be a whale of a big, beautiful book with a crack-a-jack cover.

That's enough to tell you now.

I have discussed this proposed move with the big progressive publishers whom you now represent. They want you to have more business as more business means more profits, and more profits means that you can extend and give more service.

We do not wish to take advantage of any other publisher's special organization. For instance, we have definitely abandoned any idea of a boy sale. But we do want to properly supply every newsdealer in America.

I am convinced that the live independent wholesalers in this country can give Pictorial Review a greatly increased sale right from the start.

Canvass your trade at once and mail in your order and check to cover same, by return mail, using the enclosed envelope for that purpose. We must have your order this far in advance in order to definitely determine the quantity to print for you.

Yours for more profits,

B. A. MACKINNON,
*Circulation Director.*

P. S. We shall use liberal newspaper space in advertising the May number right in your own territory.

COMMISSION'S EXHIBIT V.

(On Western Union Telegram [yellow] blank)

B19 Ch 15 Coll NL 1917 Nov 8 AM 1 33

Battle Creek Mich 7

B A Mackinson

Pictorial Review New York NY

Curtis traveling representative accepted resignation about April fifth bond returned to full May fifteenth.

J. C. DREHER.

---

SECOND DAY.

New York City, December 7, 1917, 10.00 A. M.

Met pursuant to adjournment.

PRESENT: Parties as before.

B. A. MACKINNON was recalled as a witness, and having been previously duly sworn, testified further as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Mr. Mackinnon, in your testimony yesterday I was endeavoring to have you show the methods of distribution by the American News Company and by the independent wholesalers. Will you please develop that now fully?

A. The American News Company have approximately sixty branches. Those branches are situated throughout the United States and Canada. There are large intervals between some of those branches, as, for instance, branches running—there is no branch between Richmond and Atlanta; no branch between Atlanta and New Orleans, and there is only one branch in the State of Texas, which is Dallas. There is no

branch between Dallas and Kansas City; there is no branch between Kansas City and Denver, and the next place, going west, is Denver to Salt Lake City, Salt Lake City to Spokane, and Spokane to Seattle. Of course, in between these branches, there are a large number of cities. Those dealers in these cities are supplied by these branches of the American News Company by express or mail. The dealer pays the charges for the transportation on the packages he gets from the News Company, and any unsold copies he must return to that branch and prepay the transportation back to the branch of the unsold copies. The dealer, accordingly, in the city where there is no branch of the News Company, gets his magazines at an increased cost. For instance, my magazine, which costs the dealer eleven cents in New York City or Chicago, or San Francisco, costs the dealer in some city where the American News Company branch is not located, 11 cents plus the transportation. The dealer, accordingly, makes less money on that magazine which he draws from the News Company, and on top of that, he has the added expense, if he does not sell it, of returning the magazine to the News Company.

The magazine that is sold through the independent distributor in that city shows the dealer a larger profit.

Q. What city is that?

A. In any city outside of the American News Company branch cities.

Q. These various cities that do not come under the direct supervision of the American News Company—one of the sixty branches—are those the cities you are now speaking about?

A. That is right. The independent distributor receives his magazines direct from the publisher. They are laid down at his town, at a fixed price. He distributes them to the retailers in that city at a flat price of eleven cents, with no charge to the dealer.

Q. Let me ask you this: In these towns which are not directly covered by the American News Company do they have, as a rule, independent wholesalers?

A. Practically all of them, if they are of any size.

Q. Now, in these towns, what do these independent wholesalers handle as a rule?

A. They handle, as a rule, newspapers and all magazines that are going independently; that is, magazines like the Curtis publications, "Munsey's," "Collier's," and publications like the "Literary Digest" and "Hearst's Magazine."

MR. WELCH: What was that? Please read the last question and answer.

(The stenographer repeated the question and answer.)

By MR. DALY:

Q. What are the Hearst publications they use?

A. The "Cosmopolitan," "Hearst's Magazine," "Good Housekeeping," "Harper's Bazaar," "Motoring," "Motor Boats" and "Puck."

Q. What are the Munsey publications?

A. "Munsey's Magazine," the "Railway Man," the "All-Story Weekly" and "Argosy."

Q. As I understand, from your testimony, the independent wholesaler is such a large dealer, that he is enabled to have a very efficient distribution plan?

MR. WELCH: I am not objecting to the witness testifying, but I do object to your testifying.

MR. DALY: Well, I will withdraw that, then.

By MR. DALY:

Q. In placing your paper in towns where you have been unable to secure the services of these independent wholesalers, what methods do you use?

A. Well, I have had to send one of my traveling representatives there who was compelled to remain there until he secured some method for distribution.

Q. Now, have you any record of the expense of doing that work?

A. Yes, sir.

MR. WELCH: I am going to object to that question, Mr. Examiner; it is incompetent and irrelevant here—the expense he is put to in getting his agents out to obtain wholesalers to handle their publications—because there is nothing here to show that the expense he is going to testify to, is a proper one, or a reasonable one, and I do not think it has anything to do with this matter as to what expense he is put to.

MR. DALY: In answer to that, Mr. Examiner, the testimony yesterday was, by this witness, that in substance it was impossible to build up an organization where one magazine was to be handled, owing to the expense, and I have asked the witness about towns or cities where he was unable to secure the services of an independent wholesaler. Now, then, I want to show this same thought, that it is impossible, or practically impossible, to build up an organization outside of these independent wholesalers in these cities, because of the expense, and I think I have a right to show that.

MR. WELCH: Let me say that Mr. Daly is talking about an entirely different thing when he is talking about expenses in that connection. The testimony yesterday was that a wholesaler could not handle one magazine, because of the expense to the wholesaler. Now he is asking Mr. Mackinnon as to the expense of the "Pictorial Review," in outlining its agents—is that correct?—to the independent agents.

MR. DALY: I think it is perfectly proper to show the inability of the "Pictorial Review" to put in their paper, because of the expense, they

having but one magazine. It seems to me that is the gist of the whole thing.

MR. WELCH: If Mr. Mackinnon is willing to open his books for our inspection, in order to check up and ascertain the expenses, it is all right, but we cannot allow his opinion as to this matter to go into the record—we consider it irrelevant and immaterial—without testing its accuracy by cross-examination.

MR. DALY: We insist on this line.

EXAMINER MOORE: The objection is overruled.

MR. WELCH: We note an exception.

MR. WALSH: Read the question.

(The stenographer repeated the question.)

By MR. DALY:

Q. I am speaking, of course, about the towns or some towns or cities where you are unable to secure the services of the independent wholesaler in that city, owing to the activities of the Curtis Publishing Company. Now, have you any such places?

A. Yes; one of the cities was Pittsburgh.

Q. What was your experience there with respect to that?

A. There is only one real wholesaler there, H. H. Schaffer & Company. He was the distributor of the Curtis publications, and was not allowed to handle our publications, because of the instructions he received from them. So, at that point, after we had made a thorough canvass of the city, endeavoring to get somebody to take on the publication, we were compelled to establish our own organization there to handle it. We were compelled to rent an office, employ a man, pay for motor-truck deliveries, and station a man there to show the new man who was just starting in, all of the details of the business. We kept the expenses at as low a point as possible, and the total expenses required at

that point, from April 15, 1917, to October 31, 1917, were $1685.37.

MR. WELCH: How much?

THE WITNESS: $1685.37. The total income from this point was $836.71.

By MR. DALY:

Q. During the same period of time?

A. During the same period of time showing a loss of $848.66. During these months, the net sales of our magazine in the Pittsburgh territory were 11,209 copies, and, accordingly, at this point, we have sustained a loss of $848.66, and have nothing at all to show for the sale of 11,209 copies. All the money taken in for them was expended in selling them. Under the circumstances, we find at other points, where the wholesaler draws the magazine from us at 9 3/4 cents a copy, we have no additional expenses, except the commission we pay him over and above the 9 3/4 cents. Accordingly, if we had sold these 11,209 copies at——

MR. WELCH: I object to this calculation, as to what would happen if he had done so and so.

MR. DALY: Just state what you lost or made.

THE WITNESS: Now, at Syracuse, New York, we found there was only one available wholesaler there, and we had to make a number of switches from one dealer to another, until we finally induced one man to take up the business. In the meantime, we were obliged to send our own men there to make the distribution and pick up the returns.

Q. You mean a man from your office in New York?

A. Yes; our own traveling man—he had to go there and hire a truck and pay a man to work there, to deliver the magazines and pick up the returns, et cetera. The expense of our man in doing this work, figuring only the actual time spent at Syracuse, and no expense in

getting to the city or away from it, was $99.95. We collected in that city $216.18.

Q. During what period?

A. During the same period that I figured before, from April 15, 1917, to October 31, 1917.

Q. Well, did you do business there at a profit or at a loss?

A. Well, instead of getting 9 3/4 cents, we averaged 3 1/2 cents per copy on the magazines we sold there.

Q. Have you any other instances of that character?

A. Atlanta, Georgia——

MR. WELCH: What was the total sale of your magazine in Syracuse?

THE WITNESS: Thirty-two hundred and forty-six copies—that is, up to the September issue.

MR. WELCH: Thirty-two what?

THE WITNESS: Thirty-two hundred and forty-six copies, up to the September issue.

By MR. WELCH:

Q. From what issue to what issue?

A. From the May issue to the September issue, inclusive.

Q. Inclusive of September?

A. Yes, sir. At Atlanta, Georgia, there is only one available wholesaler. We were compelled to put our own man there to make the distribution for some time. The expense of starting our man there, from April 4 to June 21, when we secured a new agent finally, was $437.79. The cash received from this point, up to and including the September issue, was $296.97, showing a loss in that city of $140.82.

Q. The cash received was how much?

A. The cash received was $296.97, and the loss

was $140.82. Our net sales in that city from May to September, inclusive, was 4490 copies from which, of course, we received no money at all when the expense is considered.

At Albany, New York, there is only one available wholesaler, and he cannot handle the magazine because of the opposition of the Curtis Company. We were compelled, accordingly to send our own man there to make distribution until such time as we could get a new man appointed, which, of course, we did. The expense of the man in his various trips to that point amounted to $90.20. The amount of money collected was $117.18. We sold in that city 3053 copies during that time.

By Mr. Daly:

Q. You mean the same time you have been testifying about?

A. That the expenses are against. It is an average net of less than a cent a copy, instead of nine and three-quarter cents.

Q. Have you any other instances?

A. Yes, sir.

Q. Go ahead and give all the instances of that character.

A. At Bridgeport, Connecticut, there was only one available wholesaler, and he was also the Curtis Company distributor. He could not handle our magazine.

Q. On account of the contract restriction?

A. Yes; on account of the restriction in his contract with the Curtis people. We could not get anybody there and, finally, we canvassed all the retailers in the city and finally induced a retailer to take on the distribution, and, in the meantime, we had to send our man there to make deliveries and handle the situation. The expense during this time amounted to $139.62. The cash received during that time amounted to $205.99. During that time we sold 2872 copies in

all, for which we received, as the figures will show, an average of 2.3 cents.

MR. WELCH: When you say during that time, you mean the period from April to October?

THE WITNESS: During the time the expenses cover.

MR. WELCH: I ask when it is.

THE WITNESS: I have not the exact date when the distributor at that point was appointed.

MR. WELCH: For what period are these expenses?

THE WITNESS: During the period when we had no wholesaler there.

MR. WELCH: I know, but what period was it, Mr. Mackinnon—how long, one week or one month or six weeks?

THE WITNESS: I have not the exact dates before me.

MR. DALY: Give it approximately.

MR. WELCH: You mean that was your expense in establishing an agency there?

THE WITNESS: Two or three months; at New Orleans there was only one available wholesaler. He was the Curtis agent, and could not handle our magazine because of the opposition of the Curtis Company. We had to send our man there to take care of the distribution and the expense amounted to $157.67, to do that work.

By MR. DALY:

Q. For what period?

A. That was——

Q. About what period?

A. That was in the early part of—May and June—when we began to distribute directly.

Q. Of this year?

A. Yes, of this year. We collected in New Or-

leans during that time, $234.23 and sold 3007 copies, showing an average of 2½ cents a copy instead of 9¾ cents. In St. Louis, there was only one available wholesaler——

Q. Why?

A. Because Baron & Molasky, who are the only wholesalers there, are the distributors of the Curtis publications and the Curtis Publishing Company forbade their handling the "Pictorial Review" at all. So we had to put another man in there and pay his expenses to take care of the distribution there, and these expenses amounted to $140.53, and during that time we received from this point a total of $687.51; we sold 9539 copies, showing an average net of 5.7 cents, instead of 9¾ cents.

Those are all the cases that I have here.

Q. Now, in those cities that you have mentioned, do the independent wholesalers handle the various magazines that you have spoken about this morning, and newspapers?

A. Yes, sir.

Q. What experience have you had with cancellations of orders on account of this contract, if you have had any?

A. Yes, we had a number when we first began, and we have had some since.

Q. What do you mean by "when you first began"?

A. When we first attempted to break away from the American News Company and began to distribute direct. We had some orders taken before the date of our first distribution.

Q. When was that?

A. The May issue that came out the 10th of April. Some of those orders were cancelled, and we refunded the money to the man in that city.

Q. Can you give any instances of that character?

A. Yes; the Erie News Company of Erie, Penn-

sylvania. They sent an order to us for a thousand copies of the May issue, accompanied by a check in payment in full for that quantity, and when they received word from the Curtis Company that if they handled the "Pictorial Review" they would lose their Curtis agency, they cancelled the order. We returned the check.

Q. Go ahead.

A. J. C. Ramroth of Troy, sent us an order for five hundred copies of the May issue, with a check in payment for that quantity. After he was notified by the Curtis Company, we had to return the check and he cancelled that order.

Q. Now, what did you do in Erie, Pennsylvania, after the cancellation of this order, about distributing your paper?

A. We finally got another man there. We got him through one of the Cleveland newspapers. He was distributing one of the Cleveland newspapers there, and we, through the assistance of the circulation manager of the Cleveland newspaper, got that man to act as distributor for our magazine.

Q. How many copies did he sell in that distribution, if you know?

MR. WELCH: During what period?

MR. DALY: During the same month of this cancellation.

THE WITNESS: The May number. I think his first order was three hundred copies instead of a thousand.

By MR. DALY:

Q. Now, in the next instance that you cite, in the——

MR. WELCH: You say that that was his order?

THE WITNESS: Yes, sir.

MR. WELCH: How many did he sell?

THE WITNESS: I have not that figure.

By Mr. Daly:

Q. Did he sell as many as he ought to have sold, in your opinion?

A. No, sir.

Q. Do you know when he got your Review for distribution—I am speaking now of the new man you were able to secure.

A. When he got it?

Q. Yes.

A. He got the May number, which came out in April——

Q. Did he get it in proper time?

A. Yes, sir; I think in that—I am not clear about that, as to whether he got it on time or not, or whether we were able to get him by publication date.

Q. Take up the next instance.

A. Yes, sir; Ramroth at Troy——

Q. What happened with that man?

A. He sent an order for 500 copies and cancelled it, and the new man sent an order for 300.

Q. Were they all sold?

A. I do not know what the net sales were.

Mr. Welch: Was that the May issue?

The Witness: Yes, sir. Callahan at Albany, New York, sent an order for 1200 copies accompanied by his check. He was compelled by the Curtis Company to cancel the order.

Mr. Welch: Now, Mr. Mackinnon, you are not asked for your conclusion as to who caused his cancellation. You are asked for the expenses——

By Mr. Daly:

Q. What was his reason for not handling your paper as a wholesaler there?

A. Because of the objection raised by the Curtis Publishing Company.

Mr. Walsh: Just say what he told you.

MR. DALY: Give his reasons.

A. He said he would like very much to handle our magazine, but if he handled the "Pictorial Review" he would lose his Curtis agency—that they had advised him so.

By MR. DALY:

Q. Did he write you or telegraph about that?

A. I think we had a letter from him or telegram, and then I sent a representative there and he talked with him.

Q. Now go on with the next case.

A. Callahan, after his order of 1200 was cancelled —we had to send our own man there to make such distribution and sell such copies as he could. The result of that work was the sale of 276 copies, net.

Q. What city is this you are talking about?

A. Albany, New York. Bolend at Worcester, Massachusetts, gave us an order for 1200 copies, and then was compelled to cancel it.

MR. WELCH: I object to that "compelled to cancel."

By MR. DALY:

Q. Just state what he did.

A. He cancelled the order.

Q. Why? Give his reasons.

A. If he handled the "Pictorial Review" he would lose his Curtis agency, and the man we placed there in his place took, of that issue, only 200 copies. Max Silverstein, of Providence, Rhode Island, accepted our agency and stated he would need a thousand copies of "Pictorial Review" for May. He then cancelled the order and stated if he handled it he would lose his Curtis agency, and the man we got there in his place—we had to send another man from another city to make the distribution—he was only able to handle about 500 copies there, because he was not equipped to do it.

Baron & Molasky, at St. Louis, gave us a tentative order for 3200 copies, but when they received their reply to their wire which they sent to the Curtis Publishing Company regarding the handling of the "Pictorial Review," they cancelled that order, and the distributor we placed there to make the distribution was able to dispose of only 1800 copies of the May issue.

Q. They gave their reasons for refusing to handle it, as the objection of the Curtis Publishing Company?

A. Yes, sir; and the Katz News Company of Kansas City—they gave a tentative order for 2500 copies.

Q. What do you mean by "tentative order"?

A. They gave that order and said they would wire to the Curtis Publishing Company; if it was all right for them to handle it, they would need that many copies. After they heard from the Curtis Publishing Company, they cancelled the order, and we had to get another wholesaler there, but his order was only for a thousand copies.

MR. WELCH: What was the tentative order?

THE WITNESS: Twenty-five hundred.

By MR. DALY:

Q. Have you other instances there?

A. Those are all I have here.

Q. Now, you have spoken about newspapers there in your testimony; that on one occasion you made an arrangement through a Cleveland newspaper. Is that one method that you adopted to make distribution of your magazine?

A. On that occasion we used the influence of the circulation manager of a newspaper at Cleveland, to get his agent at Erie, Pennsylvania, to allow us to use his agent there. In some other cities, however, we made arrangements with the newspapers ourselves.

Q. Is that a satisfactory arrangement?

A. No.

MR. WELCH: I object to that question as calling for a conclusion on the part of the witness, and I move to strike out the answer.

MR. DALY: He did not answer it.

MR. WELCH: I think he did.

By MR. DALY:

Q. What are the facts surrounding the distribution through newspaper——

A. Why, at points we have made arrangements with the circulation manager of the newspapers, with the approval of the publishers, to handle the distribution of our magazine in that city, but those are simply courtesy arrangements. We spend a good deal of money for advertising in the newspapers, and of course, if we have not got any method of distribution in that city, we cannot afford to advertise there, and the newspapers, at some points, have allowed us to make use of their own circulation and distribution organization, in order to keep us on their list of advertisers.

Q. Have those arrangements been made necessary because of the opposition or the refusal of the district agents to circulate your magazines, in instances?

MR. WELCH: I object to that, not on the ground that the Curtis Company has a place there, but it is too broad, I think.

MR. DALY: I withdraw that.

By MR. DALY:

Q. Where have you some of these arrangements?

A. At Albany, at New York, and at Detroit, Michigan.

Q. And why do you make them?

A. Because there is no other available wholesaler —no one has the equipment for making that distribution.

Q. Now, you have spoken about advertising in the newspapers. Is that necessary advertising?

A. Well——

MR. WELCH: What is that?

By MR. DALY:

Q. Is that necessary advertising or not?

MR. WELCH: I object to that. It is absolutely immaterial on the issue here as to whether the advertising in any of the newspapers is necessary.

By MR. DALY:

Q. What do you advertise in the magazines?

A. We advertise our magazines—that particular issue.

Q. That is part of the transaction, is it, of making the arrangements, that you were to do certain advertising—is that correct?

A. Yes.

Q. What would have happened there if you had not advertised?

MR. WELCH: I object; that is purely speculative and calls for a conclusion and opinion of the witness.

By MR. DALY:

Q. Could you have made the arrangements without advertising?

A. No.

Q. Was there any profits to the newspapers except what they got from your advertising?

MR. WELCH: I object to it as entirely out of the scope of this investigation and entirely immaterial to any issue here.

EXAMINER MOORE: Do you withdraw the question?

MR. DALY: No, not just yet.

By MR. DALY:

Q. Do you know, or not, whether the newspapers are remunerated for that work?

MR. WELCH: The same objection I stated before.

MR. DALY: I withdraw that question.

By MR. DALY:

Q. How did you pay the newspapers in these instances for circulating or giving you this opportunity to circulate your papers?

A. We paid them the usual commission and the advertising.

Q. Usual commission on what?

A. A cent and a quarter a copy.

Q. Now, how do they circulate the magazines then, for you?

MR. WELCH: Where are these instances? Has he specified the places?

MR. DALY: Yes, New York, Albany, Detroit and Cleveland.

THE WITNESS: Albany and Detroit——

MR. WELCH: He mentions there two places: Albany and New York.

THE WITNESS: Yes, New York City.

By MR. DALY:

Q. How do they distribute your magazines, then? They have an organization for that?

A. Yes, sir; they have wagons for the delivery of their newspapers.

Q. How do these wagon men get paid?

A. The newspapers pay them. It is generally a salary proposition.

Q. Now, if you know, will you state when the "Literary Digest" went in with the independent whole-

salers—went on the stands of the independent wholesalers?

A. About the same time we did. I think that——

Q. Before you made these efforts or when?

A. No, their first issue, I think, that they sent direct, was the issue of April 22, and our first issue that we handled independently was the May number, which was published April 10, to the best of my recollection.

Q. Do you know whether there was any opposition by the Curtis Publishing Company to the "Literary Digest" going on their stands?

MR. WELCH: I object to this from this witness. It can only be based on hearsay evidence.

MR. DALY: It is perfectly proper for this reason——

MR. WALSH: If the witness knows it he can state that.

MR. WELCH: I object to that.

EXAMINER MOORE: Objection overruled.

THE WITNESS: There was no objection to the "Literary Digest" from the Curtis Company, as far as I know.

MR. WELCH: I object to that and move to strike it out as not responsive—"as far as I know"—as the question was, did he know or did he not know.

By MR. DALY:

Q. Do you know or not?

MR. WELCH: I would like to strike out of the record that answer.

MR. DALY: What is it—read the question and answer.

(The stenographer repeated the last question and answer.)

MR. WELCH: I move to strike out the answer.

EXAMINER MOORE: The motion is sustained.

MR. DALY: What was the last question? Just read it again.

(The stenographer repeated the answer.)

THE WITNESS: There was no objection.

MR. WELCH: I move to strike that out.

By MR. DALY:

Q. Do you know or not?

A. I know.

Q. You say you know?

A. Yes, sir.

Q. Now, was there or not any objection?

A. There was not.

Q. Do you know Krauss, in Columbus, Ohio, a wholesaler?

A. Yes, sir; I do.

Q. Have you had any dealings with him?

A. Yes, sir.

Q. Is that a telegram from him to you (handing paper to witness)?

A. Yes, sir.

MR. WELCH: We have never had this communicated to us in any way and we object to that going in. We will have to look up some records, if you want to put this in.

MR. DALY: Will you produce the letter in reference to the Krauss incident?

MR. WELCH: We will produce the correspondence, but we do not want that sort of thing to go in—I do not want a statement from Krauss to Mr. Mackinnon going into the record, without showing what we did, without knowing whether it is correct or not. Just hold that for the time being, please.

MR. SPIESS: Can we not have that correspondence, Mr. Welch?

MR. WELCH: Yes, if you will wait until we get it.

By MR. DALY:

Q. Mr. Mackinnon, is Krauss the district agent or wholesaler in Columbus, Ohio, if you know?

A. Yes, sir; he is an independent wholesaler there.

Q. Were you able to do business with him?

A. I was.

Q. When, and give us all the facts?

A. We made arrangements with him about the time we broke away from the American News Company some time in February, and he——

Q. February, 1917?

A. 1917; yes, sir.

Q. Well, what were the arrangements?

A. A regular sales arrangement, the same as with all wholesalers. He placed an order for a certain number of copies at nine and three-quarter cents each.

Q. What became of them?

A. We shipped them to him and he distributed them and he has been our wholesaler ever since.

Q. Do you know whether or not the Curtis Publishing Company objected to this arrangement?

A. They surely did.

Q. They did?

A. Yes, sir.

MR. MILBURN: Just a second, and we may be able to give you the information on that telegram.

MR. WELCH: We just want to check up the dates.

MR. MILBURN: Here is the letter, but the actual cancellation was probably done orally.

MR. WELCH: We do not make any objection to that telegram now. We just want it to check it up.

MR. DALY: I offer the telegram which has been identified by Mr. Mackinnon, and the letter of the Curtis Publishing Company, which was the cause of the sending of this telegram. They are admitted, under agreement.

EXAMINER MOORE: Is that satisfactory?

MR. WELCH: Oh, yes, we consent to it.

(The papers referred to were thereupon received in evidence and marked by the stenographer "Commission's Exhibits X and Y," respectively, and are as follows):

"March 24, 1917.

Mr. Scott Krauss,
77 Spring Street,
Columbus, Ohio.

Dear Mr. Krauss:

We understand that you have made with other publishers arrangements contrary to Clause 13 of your agreement with us and without our approval.

After repeated effort to persuade you to a conference upon the subject, we are forced to the conclusion that you are unwilling to confer, and we therefore notify you that your agency is hereby canceled for breach of contract with us. We can send no more of our copies to you.

Personally I am very sorry that you forced us to this action.

Very truly yours,
THE CURTIS PUBLISHING COMPANY,
*District Manager.*"

---

"Columbus, Ohio, 428P Nov 7

B. A. Mackinnon
Pictorial Review Co

Curtis cancelled contract letter dated March 24th bond returned in full April 18th.

SCOTT KRAUSS."

By MR. DALY:

Q. Have you had dealings with Mr. George E. Seidler, of Springfield, Illinois?

A. Yes, sir.

Q. Is that the letter you received from him (handing paper to witness)?

A. Yes, sir.

Q. Is that the letter you received?

A. There is the telegram attached to it; yes, sir.

MR. WELCH: In regard to this letter, we are perfectly willing to admit the first paragraph, but we object to the statement of a conversation by this man with our road man, and what the road man said to him, without an opportunity to cross-examine, and we have to object to all except the first paragraph of that letter as improper and irrelevant and immaterial. You see, there is contained in the letter a reference to a conversation with our man.

MR. SPIESS: All we ask you to agree is that that is the letter written by Mr. Seidler. We simply ask you to agree to the statement.

MR. WELCH: I would like the Examiner to read that letter.

EXAMINER MOORE: I understand that certain parts of it are objectionable.

MR. WELCH: The point is this: The agent notified the "Pictorial Review" people that his contract is cancelled, and then goes back over a long history of the transaction and gives the transaction with one—gives the conversation with one of the Curtis Company's agents, in which the agent makes a statement and he makes a statement, and gives his opinion as to why the Curtis Company's contract is not good, and so forth, purely a self-serving statement on the part of this man, setting forth the conversation of one of our men. It is

the most incompetent sort of proof that could ever be put into the record. We want to be just as helpful as we can, and let everything go in without the necessity of formal proof.

MR. MILBURN: We admit the cardinal fact, that the contract was severed on account of wholesaling the "Pictorial Review."

MR. WELCH: We will admit the first part of the letter.

MR. DALY: We simply want to go to the question of notice from the Curtis people to this man Seidler, and we are perfectly satisfied that the first paragraph shall be the part of the letter introduced.

This paragraph is as follows:

"Springfield, Ill., Nov. 23, 1917.

B. A. Mackinnon,

New York City.

Dear Sir:

I am in receipt of a letter under date of November 20th from the Curtis Publishing Company, signed by M. E. Douglas, as follows: 'In accordance with Article 19 of the District Agency agreement between the Curtis Publishing Company and yourself, we beg to notify you that said District Agency agreement and your agency thereunde. will be terminated without further notice, upon expiration of 30 days upon the receipt by you of this notice, and that upon such termination we will return to you any balance of the cash security remaining, with interest.

(Signed) GEORGE E. SEIDLER."

MR. DALY: It is admitted that this letter was for the purpose of enforcing the Curtis contract with this man Seidler.

MR. WELCH: I do not know what you mean by "enforcing the Curtis contract." This letter was for the purpose of terminating the relation between the Curtis Company and this particular man, but I do not know what the reason was for it. In some cases a man has been dispensed with because of his inaccurate accounts.

By MR. DALY:

Q. I asked you about Seidler, Mr. Mackinnon, what is your testimony? Did you do business with him or not?

A. Yes.

Q. And does he still continue to do business with you?

A. He does.

Q. Notwithstanding the notice that he received?

A. That is right.

MR. DALY: That is all.

EXAMINER MOORE: You may cross-examine.

CROSS-EXAMINATION.

By MR. WELCH:

Q. You said you had been with the Pictorial Review Company for ten years?

A. Yes, sir.

Q. With whom were you before that?

A. "The Woman's Home Companion," and before that "Everybody's Magazine."

Q. How many years were you with "The Woman's Home Companion"?

A. One year.

Q. How many years with "Everybody's Magazine"?

A. Two and a half or three years.

Q. So you have been about fifteen years in the business of——

A. Before that I was with "McClure's."

Q. With "McClure's"?

A. Yes, sir.

Q. How did those three magazines that you have mentioned you were connected with before you went to the "Pictorial Review" distribute?

A. Through the American News Company.

Q. Through the American News Company?

A. Yes, sir.

Q. When you first became connected with the "Pictorial Review," were they distributing through the American News Company?

A. Yes, sir.

Q. And they have continued to do so during the entire ten years of your connection?

A. Yes, sir.

Q. Up to what date?

A. April 10, 1917.

Q. What is your position with the "Pictorial Review"?

A. Circulation director.

Q. Have you any assistants in your office or in that department?

A. Yes.

Q. How many?

A. Five or six chief assistants.

Q. Five or six chief assistants?

A. Yes, sir.

Q. They are located in the New York office?

A. Yes, sir.

Q. I wish you would state their names.

A. Mr. Ackert, Mr. Graham, Mr. Waxman, Mr. Freyer and Mr. Smith are the only men I have.

Q. Now, those men you mentioned and you, direct the circulation and the distribution of the "Pictorial Review Magazine"?

A. Yes, sir.

Q. You personally, I presume, direct the policies of the "Pictorial Review" in distributing its magazines, do you not?

A. Yes, sir.

Q. And your attitude and policies in that connection regulate the general attitude and policies of the Pictorial Review Company—is that correct?

A. Yes, sir.

Q. Did you instigate this proceeding before the Federal Trade Commission?

MR. DALY: I object to that. That has no material place in this proceeding—who institutes it has nothing to do with it.

MR. WELCH: I did not say instituted it.

MR. DALY: This is now a proceeding brought by the Federal Trade Commission against this respondent, and who made the complaint to the Federal Trade Commission or anything of that character has nothing to do with this proceeding, and I object to it.

MR. WELCH: It seems to me we are entitled to show, in view of the character of this witness's testimony that he is the one who instigated this entire proceeding.

MR. DALY: Mr. Examiner, the complaint says, upon preliminary investigation by the Federal Trade Commission, these proceedings were brought, and whether some particular person went down there and made a complaint has nothing to do with it.

MR. WELCH: I think it goes to the question of the witness's credibility very strongly. I do not see how it does any harm to the Trade Commission.

EXAMINER MOORE: The objection is sustained.

MR. WELCH: For the purpose of the record I wish to state by this question we offer and in-

tended to prove that the present proceeding against the Curtis Publishing Company by the Federal Trade Commission was brought to their attention and was instigated by the witness, B. A. Mackinnon, of the Pictorial Review Company. That is what I offer to prove.

MR. WALSH: I think, upon that question, while the objection to it as it was put, was properly sustained, because neither Mr. Mackinnon nor the "Pictorial Review," by law, can institute a proceeding before the Federal Trade Commission——

MR. WELCH: I did not say instituted.

MR. WALSH: The question was whether the witness instigated the proceeding before the Federal Trade Commission. The objection to it is properly sustained, and so that the matter may be clear the question submitted to this witness as to whether or not he complained direct or complained through the "Pictorial Review" to the Federal Trade Commission is, in my opinion, a proper question as going to the witness's interest in the matter, and his credibility, and if a question of that character be submitted to the witness, if it is properly put, I think it may be answered by the witness as going to his interest and credibility.

EXAMINER MOORE: The objection is sustained.

MR. WELCH: I will take an exception and will ask this question.

By MR. WELCH:

Q. Did you make a complaint to the Federal Trade Commission with respect to the matter of the Curtis Publishing Company's relations with these district agents?

A. I did.

Q. When was that—approximately?

A. I am not positive about the date.

Q. What is that?

A. I am not sure about the date.

Q. April or May, 1917?

A. I think it was about that time.

Q. That was done on behalf of the Pictorial Review Company?

A. Yes, sir.

Q. What was the circulation—the monthly circulation—of the "Pictorial Review" when you first started with it?

A. 150,000 copies a month.

Q. What was it five years ago—if you can tell us—we will say, in November, 1912?

A. I have not the figures back of January, 1913, with me.

Q. Well, give me January, 1913.

A. 700,000.

Q. And have you January, 1914?

A. 950,000.

Q. And 1915?

A. One million.

Q. And 1916?

A. 1,175,000.

Q. And those in January?

A. Yes, sir.

Q. What was it in January, 1917?

A. 1,200,000.

Q. That is, monthly?

A. Monthly; yes, sir.

Q. That means paid circulation; that is, circulation for which you were paid?

A. No, sir; that is the gross print.

Q. The gross print?

A. Yes, sir.

Q. Is that based upon the same considerations that

the circulation of one million, four hundred thousand you gave as the present circulation——

A. Yes, sir.

Q. That is the gross print?

A. Yes, sir.

Q. That is not the actual sales?

A. No.

Q. You say no?

A. No—yes, that is what I said.

Q. Have you anything to show the actual sales?

A. Not here.

Q. Can you get it?

A. I have some figures here that will show—I have the average net sale for 1914, 1915 and 1916. These are the figures made by a certified public accountant. The average net sale for the year 1914 was 981,895.

MR. DALY: What year was that?

THE WITNESS: 1914.

MR. SPIESS: That was net?

THE WITNESS: Yes, sir.

By MR. WELCH:

Q. That was 1914?

A. Yes, sir; 981,895.

Q. Have you got the figures for 1915?

A. 1,089,584.

Q. And the figures for 1916?

A. 1,217,760.

Q. That is for the year 1916?

A. Yes, sir; and the average for the twelve months.

Q. You have not got the 1917 figures made up?

A. No, sir; I have the net for one month only in 1917.

Q. What month was that?

A. The month of October.

Q. Now, prior to March, 1917, you testified you

distributed the "Pictorial Review" through the American News Company by subscriptions?

A. Yes, sir.

Q. What was the last issue that you distributed through the American News Company?

A. That was the April number, 1917.

Q. So that after the distribution of the April number, you then decided to make a change; that is, you decided to make a change after the distribution of the April number by the American News Company?

A. We made the decision to change some time before that.

Q. I understand that, but your decision was to change after the April issue?

A. Yes, sir; that is right.

Q. Now, you have said that you made an investigation and you found out that the Independent Distributors could increase your circulation and that you then followed them up and saw them at various cities. You said that you followed them up and had men—traveling men, travel around and see the so-called wholesalers in various cities. How did you locate those men?

A. By going to the city and asking the news dealers who supplied them with the different magazines that they did not get from the news company.

Q. Did you have any list or any knowledge of who the Curtis Publishing Company's agents were in the various cities?

A. We knew some of them, of course, as we ran into them in the various cities.

Q. Did you make any effort in any of the cities, to find out who the Curtis Company's agents were when you had your men start out to find out who the wholesalers were?

A. We had them go to——

Q. Did you make any effort to find out who the Curtis Publishing Company's agents were?

A. Yes, sir.

Q. You wrote circular letters and sent them out to all the people, asking them to advise who the Curtis Publishing Company's agents were?

A. The agents for all magazines.

Q. I did not ask that. Will you read the question, Mr. Stenographer?

(The stenographer repeated the question.)

MR. DALY: I object to that.

By MR. WELCH:

Q. You sent them out to the various localities, asking who the Curtis Publishing Company's agents were?

A. I asked for the names of the various wholesalers there and what magazines they handled.

Q. Did you send out the letters or circulars to persons in the various localities asking them specifically to advise you who the Curtis Publishing Company's agents were in that particular locality?

A. I do not remember asking for the Curtis Publishing Company's agents specially.

Q. You do not remember that?

A. No, sir.

Q. But you will not say you did not?

A. I might have, in a few instances.

Q. You say there were fourteen or fifteen hundred wholesalers in the United States—where did you get that information?

A. From other magazine men who were working through the independent wholesalers.

Q. Are those fourteen or fifteen hundred wholesalers—so-called wholesalers—that you speak of, names that you got as a result of your investigation?

A. I did not get that many in my investigation.

Q. You did not get that many?

A. No, sir.

Q. I thought you said you got that many after your investigation?

A. You asked how I knew there were that many, as I understood your question.

Q. Yes.

A. I told you I heard there were that many from the other magazine men.

Q. How many was this that you testified to that you tried to get?

A. I got about a thousand names.

Q. How many did you attempt to get—oh, you got about a thousand names?

A. Yes, sir.

Q. Then, based on your own knowledge, you knew then of a thousand?

A. Yes, sir; there are some cities where we would not want wholesalers.

Q. When you or your men went into a town or city to find out, as you testified, who the wholesalers were, did you go or make any particular inquiry for the Curtis Publishing Company agents or agent?

A. We always asked——

Q. Who the Curtis Publishing Company's agent was?

A. Yes; I think so.

Q. Did you ever go after anyone who was not the Curtis Publishing Company's agent?

A. Oh, yes.

Q. Where—can you recall?

A. Minneapolis.

Q. Did you get a man [illegible]?

A. Yes, sir.

Q. Now, referring to the American News Company, is it not a fact that the American News Company was a distributing agent for many years, and is

still the distributing agent, for the vast majority of the magazines and periodicals in this country?

A. I should not say the vast majority—no.

Q. What would you say?

A. I think, as it stands now, most of the magazines with large sales are going independently.

MR. DALY: Before proceeding, Mr. Welch, I would like to ask him what that question was in reference to going to other agents. I am not clear about that in other cities. What was that question, Mr. Stenographer?

(The stenographer repeated the last question.)

MR. WELCH: What was the last question and answer?

(The last question and answer was read by the stenographer.)

By MR. WELCH:

Q. Now, is it not [illegible] thereabouts—in the spring [illegible] practically approximately [illegible] per cent. of the periodical publishers of the country who distributed their magazines through the American News Company?

A. I do not know.

Q. What percentage would you say existed in the early part of 1917?

A. It is very difficult to estimate.

Q. You say that the majority of the large publishers distributed their magazines through independent dealers?

A. Yes, sir.

Q. Through independent organizations of their own?

A. Through the independent wholesalers.

Q. What majority would you say?

A. I should say more than half of the largest sellers.

Q. What do you call the largest sellers—I want you to specify that?

A. I think a magazine that has over half a million circulation.

Q. I want you to specify the magazines that you say now are distributing by means of what you call independent distributors, and who do not distribute through the American News Company.

A. There is "The Ladies' Home Journal"; there is "The Saturday Evening Post" and "The Country Gentleman"——

Q. We know of them.

A. The "Cosmopolitan," "Hearst's Magazine," "Housekeeping"——

mention the Hearst Magazines alto-

Hearst Magazines altogether; then the Munsey group.

Q. The Curtis, Hearst's and Munsey

A. Yes, sir.

Q. And what else?

A. The "Literary Digest."

Q. Yes.

A. "Collier's" and the "Pictorial Review."

Q. "Collier's" and the "Pictorial Review"?

A. Yes, sir.

Q. Those are six?

A. Six different houses.

Q. I am talking about publishing companies. I am not speaking of any number of magazines that a concern may have.

A. Yes, sir; in addition to that there are some small ones.

Q. I know—do you know how the "McClure Magazine" is distributed?

A. Through the news company.

Q. You mean the American News Company?

A. Yes, sir.

Q. How is the "Atlantic Monthly" distributed?

A. Through the American News Company.

Q. And the "World's Work"?

A. Through the American News Company.

Q. And the "Blue Book"?

A. Through the American News Company.

Q. How is "Ainslee's" distributed—"Ainslee's" and the "Review of Reviews"?

A. Through the American News Company.

Q. And the "Century Magazine"?

A. Through the American News Company.

Q. And the "Christian Herald"?

A. Through the American News Company.

Q. "Harper's Magazine"?

A. Through the American News Company.

Q. How is "Life" distributed?

A. Through the American News Company.

Q. How is "Sunset" distributed?

A. Through the American News Company.

Q. How are the "Green Book," "Illustrated World," "Popular Mechanics"——

A. They are distributed through the American News Company.

Q. How is the "National Sportsman" distributed—do you know?

A. Why, I think they are distributed in two ways. They distribute direct.

Q. Is not that distributed through the American News Company?

A. I do not think—not exclusively.

Q. How is the "Illustrated World" distributed?

A. I think through the American News Company.

Q. And "Popular Mechanics"?

A. Through the American News Company.

Q. "Red Book"?

A. Through the American News Company.

Q. That is a prominent publication, is it not?

A. Yes, sir.

Q. How is "House Beautiful" circulated and distributed?

A. Through the American News Company.

Q. How is "Judge" distributed?

A. Through the American News Company.

Q. How is "Leslie's Weekly" distributed?

A. Through the American News Company.

Q. And the "Metropolitan"?

A. Through the American News Company.

Q. And the "Popular Magazine"?

A. Through the American News Company.

Q. The "Scientific American"?

A. Through the American News Company.

Q. "Scribner's Magazine"?

A. Through the American News Company.

Q. "The Ladies' World"?

A. Through the American News Company.

Q. How is "Vanity Fair" distributed?

A. Through the American News Company.

Q. And "Vogue"?

A. Through the American News Company.

Q. That has a large circulation, has it not?

A. Well, not—it all depends on what you think a large circulation is. Compared with "The Ladies' Home Journal" it has not.

Q. Do you not call "Vogue" a large seller?

A. Not compared with magazines in the million circulation class.

Q. What is the circulation of "Vogue"?

A. I see a gentleman from "Vogue" here, who can tell us.

Q. Do you know?

A. No, sir.

Q. How is "House & Garden" distributed?

A. Through the American News Company.

Q. How is "Outing" distributed?

A. Through the American News Company.

Q. I am going to read a list of magazines to you, and I want you to specify, as I read it, which are or are not distributed by the American News Company. In addition to those I have already mentioned, "Outing," "Physical Culture," "Smith's Magazine," "Top-Notch," "Wide World," "Home Needle Work," "People's Home Journal," "Country Life in America," "Garden Magazine," "John Martin's Book," "Popular Science Monthly," "Short Stories," "Boys' Life," "Current Opinion," "Film Fun," "North American Review," "Outlook," "Theatre," "Travel," "Young's Magazine," "Modern Priscilla," "Today's Housewife," "St. Nicholas," "New Republic," "Delineator," the "Etude"——

A. The "Etude" goes direct.

Q. ——The "Independent," the "International Studio," "Mother's Magazine," "Bon-ton," "Book Man," "Everybody's Magazine," "System," "American Boy," "Designer," "Woman's Magazine," "Adventure," "Survey," "Forum" and "Billboard"—now, of all the magazines that I have just mentioned, there is only one, as I understand it—the "Etude"—that is not distributed by the American News Company?

A. Yes, sir.

Q. When you say that a magazine is distributed through the American News Company, you mean that it does not use what you call the independent distributors?

A. That is right; yes, sir.

Q. Those magazines are all using the American News Company today, as far as you know?

A. As far as I know; yes, sir.

Q. Now, after you got this list of so-called independent distributors, you said you started to close up. When did you start to close up with the so-called independent distributors?

MR. DALY: What was your question?

(The stenographer repeated the question.)

MR. DALY: What do you mean by "close up"?

MR. WALSH: I do not know. He said that he started to close up with these dealers—I was quoting his words.

By MR. WELCH:

Q. What do you mean by "closing up"?

A. Getting their order and check for the first shipment.

Q. How did you go about that—circularize them or send men?

A. Both.

Q. Have you convenient there a copy of the first circular you sent out?

A. It is in the exhibit.

Q. You sent out the circular letter which has been put in evidence here, which starts out "Mr. Live Wholesaler, I have decided to make the Pictorial Review," etc.?

A. Yes, sir.

Q. Was that your first step towards closing up with these various dealers that you referred to, in obtaining distribution through them?

A. Yes, sir.

Q. Had you approached any of them or any of your representatives, had they approached any of them prior to that time?

A. Yes, sir.

Q. When do you think you first took it up with the first wholesaler in order to obtain his services?

A. Why, I think that the men—my traveling men

took it up in a definite way about a week before—somewhere along about the first of February.

Q. Then, you think the first that it was taken up with any so-called independent distributor by your company was about the first of February?

A. Yes, sir; but there was nothing definite done until after February 10th.

Q. Did you have a list or any knowledge of who the Curtis Publishing Company's district agents were in the various cities, at the time that you sent out the circular that I am referring to?

A. I did not know who were the Curtis Publishing Company's wholesalers, and who were not.

Q. To whom did you send out this circular?

A. To the list of wholesalers that I had.

Q. You had a list of wholesalers then, in February, when this circular went out?

A. Yes, sir.

Q. Is that the list which you said was obtained by your men and by yourself, in going around the various cities?

A. That had been made up over a long period of years in gathering those names together.

Q. Then, those names were not ascertained at the time or about the time that you intended to switch from the American News Company?

A. No, sir; not all of them. Many of those men I had known for a great many years.

Q. Do you know whether or not that circular that you referred to was sent to anyone who was not a Curtis agent?

A. Yes; I have no doubt it was.

Q. Could you give me approximate figures or percentage of the number of men who were not Curtis agents where that circular was sent to?

A. I have no idea of how many names in that list were Curtis wholesalers and how many were not.

Q. Now, how many of those circulars were sent out?

A. I could not tell you exactly. I think it was about six or seven hundred—about that number.

MR. DALY: I cannot hear you over about half of the time.

THE WITNESS: I said I think about six or seven hundred went out.

By MR. WELCH:

Q. How did you attempt to reach the other seven or eight hundred going to make up the fourteen or fifteen hundred that you spoke about?

A. Why, our men were traveling on the road, and there are some cities where there are wholesalers that would make up that quantity that we would not want to put a wholesaler in that town—not large enough.

Q. Now, you said there was only one wholesaler or one large wholesaler in the various cities, or most of them. Did you mean that?

A. Yes, sir.

Q. Only one wholesaler in big cities like Chicago and Pittsburgh, Albany, Boston and New York?

A. There are two in Chicago and one in Pittsburgh and one in Albany.

Q. Only one wholesaler in the city of Pittsburgh?

A. Correct.

Q. What is that information based on?

A. A careful canvass of the territory by my men.

Q. Now, what do you mean by such a wholesaler as you say there is only one of them in Pittsburgh?

A. I mean that there is only one man who does a business with the retail news dealers there—distributes magazines to them and has equipment to take care of a magazine of our kind.

Q. There are other men there who are distributing newspapers to retail dealers besides that one?

A. I do not know of any in Pittsburgh.

Q. Did you ever hear of the Duquesne News Company there?

A. I have.

Q. What is that?

A. That is a subterfuge of Mr. Schaefer's.

Q. I do not care about that. What is it? Is it a distributing concern—that does not mean much to me.

A. It has no equipment and handles no magazines, as far as I know now.

Q. It handles newspapers, does it not?

A. Not that I know of.

Q. Really, according to you, it is not in business at all, is it?

A. Hardly.

Q. How about St. Paul, Minnesota?

A. Only one wholesaler there.

Q. Only one man who is competent to do the wholesale business in St. Paul, Minnesota—is that your testimony?

A. Yes, sir.

Q. You say that is generally true throughout the cities of the United States?

A. That is generally true.

Q. You got men in every place, did you not?

A. Finally.

Q. You finally got a man in every place?

A. We had to have one.

Q. To act as your wholesale distributor?

A. Yes, sir; we got one.

Q. Please answer loudly enough to be heard.

A. Yes, sir; we got one.

Q. Now, your principal objection, I understood it, to the service of the American News Company was that they did not have such efficient follow-up or promoting services—is that the fact?

A. There were a good many reasons.

2671

Q. Was not that your principal objection?

A. It is pretty hard to say which was the principal objection. One was that the men out of town do not make as much profit as the men in the city.

Q. What do you mean by the man out of town?

A. The man outside of the city where the American News Company branch is located. He makes a smaller profit out of my magazine.

Q. The retailer?

A. Yes, sir.

Q. You are looking at it from the retailer's view?

A. No, sir; my view, because the more profit he makes, the more interested he is in pushing it.

Q. The question comes back to who will push or follow up your publication the best?

A. The best service.

Q. That is what I said in the beginning, that the American News Company did not furnish the same follow-up service or promotion service as the independent wholesalers?

A. Yes, sir.

Q. Is it not a fact that the American News Company reaches every point in the United States where your magazine could be wanted by the reader?

A. Yes, sir.

Q. For many years you distributed your magazine to every part of the United States through the American News Company?

A. Yes, sir.

Q. In that connection you say—making a comparison—you say there are only sixty branches of the American News Company. You did not mean to say by that that the actual distribution of the magazines and periodicals throughout the United States is limited or restricted, did you?

A. It is hampered. It is not as efficient.

Q. I am not asking about this being as efficient,

but I am asking you if the number or freedom of distribution is restricted in any way?

A. Yes, sir.

Q. In what respect?

A. The wholesaler in practically all these cities supplies a larger number of retail news dealers in a particular city than the American News Company supplies—its distribution is broader and is to more dealers.

Q. That is by reason of his promotion work, is it not?

A. Yes, and the fact he delivers daily papers there. He has accounts with them, and they do not want to have new accounts with the news stands.

Q. Is it not possible for any retail dealer in any part of the United States to get copies of your magazine through the American News Company, for sale?

A. Yes, sir.

Q. And it has always been so; is not that the fact?

A. As far as I know, yes, sir.

Q. In respect to this following up and promotion that you spoke about as an important feature of the wholesalers' services, that really involves more than the actual sale of the magazine, does it not—the actual distribution and sale?

A. Yes, sir.

Q. It involves a special service, does it not?

A. Yes, sir.

Q. What did you say?

A. Yes, sir.

Q. Now, I understood you to say that it was cheaper to do business through the wholesaler—the so-called wholesaler—than through the American News Company?

A. Yes, sir.

Q. Is that your statement?

A. Yes, sir.

Q. Does not the retailer get his magazine at the same price from the American News Company as he gets it from the wholesaler, with the exception of the small delivery charge?

A. Yes, sir.

Q. Now, with respect to that delivery charge, that is not a charge made on each separate magazine to the retailer, is it?

A. When he is located outside of the city where the American News Company is, it is on the express rate of so much per pound—on the pound rate.

Q. In cases where a retailer handles more than one magazine, they would all be shipped together, as I understand it, to him?

A. Yes, sir.

Q. And the small charge to ship it to him would cover all of those separate magazines?

A. That depends, Mr. Welch, on whether you are speaking about the dealer located——

Q. No, I mean the——

A. If they ship those by express, the charge would vary.

Q. But the charge would be divided up among a number of magazines—the number of magazines that the retailer handles?

A. Yes, sir; according to the weight of the package; yes, sir.

Q. Now, in making your statement that it was cheaper to do business through the so-called wholesalers, did you take into account what we call overhead charges connected with the wholesalers' business?

A. Yes, sir.

Q. You took those charges into account?

A. Yes, sir.

Q. What sort of accounting do you have with the American News Company on an issue, in sending out

a magazine—does it not simply involve a gross sum of magazines turned over to them?

A. Yes, sir.

Q. Would you not say it was a very different matter in connection with expenses, to keep the accounts of 1200 or 1500 separate wholesalers?

A. But you get more money for that.

Q. I am not asking about that. I am asking about the expense. Read the question, Mr. Stenographer.

(The stenographer repeated the question.)

A. Naturally it is more expensive.

Q. It requires a much larger force of accountants?

A. Yes, sir.

Q. Did you consider all that when you said you could do it cheaper with the wholesaler?

A. Yes, sir.

Q. Cheaper per copy?

A. Yes, sir.

Q. Did you consider all the other so-called overhead charges of maintaining an organization, which is necessary to distribute through the wholesalers?

A. Yes, sir.

Q. And even then you are prepared to say that you can do business cheaper through the wholesaler than you can through the American News Company?

A. Yes, sir.

Q. You do not mean the actual outlay of money—that it is cheaper in that respect, do you? You have in mind, I suppose, what you think your net return would be?

A. The average net per copy left after deducting expenses, et cetera, as compared with the news company.

Q. But the actual expense of distributing a magazine through so-called wholesalers, would be much greater than the expense of distributing that magazine

through the American News Company—is not that a fact?

A. It is pretty hard to state——

Q. It should not be hard. You said you took into account the overhead expenses.

A. We have a great many more expenses now than we had before.

Q. Can you not answer the question?

A. It is not clear to me.

Q. In the actual money paid out and considered necessary for overhead charges, in distributing a magazine, is there not a greater outlay of money in distributing through a number of so-called wholesalers throughout the country than through one organization, like the American News Company—is there not a greater outlay of money?

A. Yes, sir.

Q. That is a perfectly clear question, then. Now, if that is a fact, how can there be a greater return net per copy by distributing through the wholesaler than through the American News Company?

A. Because you get more money for the magazines, and you have no expense on the unsold copies.

Q. Now, the expense on unsold copies from the American News Company is what?

A. It varies from one and one-half to three cents a copy, depending on the publication.

Q. Depending on the publication?

A. It is as high as three cents a copy on some publications.

Q. Is that a pound rate?

A. Yes, sir.

Q. I thought it was two cents a pound.

A. That is on the basis of a pound. Most magazines—my magazine generally weighs a pound.

Q. Well, two cents per pound would be the rate

charged for returned copies from the American News Company?

A. Ours, exactly, was one and one-half cents from some points and two cents from others.

Q. Now, who pays that cost of return?

A. The publisher.

Q. I understood you to say that your magazine cost the retail dealer eleven cents?

A. Yes, sir.

Q. And that to some of them it cost eleven cents plus transportation and added expense of return?

A. Yes, sir.

Q. Now, you say the publisher pays the expense of return?

A. The dealer pays back to the branch of the news company and the publisher pays on the copies when they are delivered to his store. He pays the expense from the branch to New York.

Q. You say the dealer pays the return charge to the news company?

A. Yes, sir; to the branch.

Q. And you pay the return charge from the branch?

A. From the branch to New York; yes, sir.

Q. Now, when copies are sent out through the American News Company, who pays the transportation charges?

A. The American News Company.

Q. When copies are sent out by publishers to independent wholesalers and dealers, who pays the charges?

A. Well, we pay to the wholesaler, but the news company pays only to its own branch. From the branch to the retailer, the retailer pays.

Q. I am not talking about the expense to the retailer; I am talking about the expense to the publisher.

Now, when copies are sent out through the American News Company——

A. When you ask the question——

Q. I am asking you this question: When magazines are distributed through the American News Company, does not the American News Company pay the charges from the publisher to the branches?

A. Yes, sir.

Q. The American News Company pays that charge?

A. Yes, sir.

Q. The publisher has nothing to pay on that transportation?

A. Yes, sir.

Q. Now, when a publisher distributes his magazines through the wholesalers in various cities, does not the publisher pay the charge in those cases?

A. Yes, sir.

Q. Now, Mr. Mackinnon, you testified this morning to the effect that where you could not get a wholesaler, your representative or representatives secured some method of distribution. What did that mean—what was that method of distribution?

A. Regardless of the expense we had to——

Q. Now, please strike that out. I did not ask that. I asked what was that method of distribution?

A. It varied in different cities.

Q. Tell me what it was?

A. Some man distributed the magazines to the dealers. Sometimes it was our own man and in that case every motor truck we used, we hired. In other cases, the Newspaper Circulation Department took it over and delivered it from their wagons. In places it was the retailer who hired the truck and we paid the expense.

Q. Does that cover all that you meant?

A. Yes, sir.

Q. Now, with respect to all of the expenses you have given, where you have cited items of expense in establishing the dealer or an agent for the distribution of your magazine, is it not a fact that any concern that so radically changes its method of distribution from one agency to another agency, will be put to some expense?

MR. DALY: That question, I think, is irrelevant, unless his attention is called to some other concern, or whether he knew some other concern that had changed its plan of distribution, and so forth. I think that is too general a question and I object to it.

EXAMINER MOORE: The objection is sustained.

MR. WELCH: Exception.

By MR. WELCH:

Q. Do you think, Mr. Mackinnon, that when the Curtis Publishing Company established its agencies throughout the United States that it was not put to great expense?

MR. WALSH: The question is objectionable because it assumes the Curtis Publishing Company did establish agencies throughout the United States, and there is no proof thus far adduced that the Curtis Publishing Company has established agencies throughout the country.

EXAMINER MOORE: The objection is sustained.

MR. WELCH: Exception.

By MR. WELCH:

Q. Do you know whether or not the Curtis Publishing Company established any agencies in the United States for the distribution of its magazines?

A. I do not know.

Q. You do know that the Curtis Publishing Company, many years ago, distributed magazines through the American News Company?

A. Yes, sir.

Q. And they changed their method of distribution?

A. Yes, sir.

Q. Is that all you know about the arrangements with respect to building up any agencies for the distribution of their magazines?

A. I suppose I know what is common knowledge in the trade about their methods, et cetera.

Q. I do not want to know what is common knowledge. You would not be allowed to state that. Now, in Pittsburgh you testified that you had to open an office there and pay a man to go there and arrange for motor truck deliveries?

A. Yes, sir.

Q. And had expenses in doing it?

A. Yes, sir.

Q. That was an initial expense in opening that office and starting that dealer there?

A. Yes, sir.

Q. That expense does not continue every month, does it?

A. Yes, sir.

Q. Are you still paying the expense of opening an office there at that place?

A. We are paying the expense of maintaining the office.

Q. Maintaining the office?

A. Yes, sir.

Q. Then the expense you gave from April, 1917, to October, 1917, of $1685.37, really covered the expense of opening the office and the expense of maintaining it up to that time?

A. Yes, sir.

Q. It included the initial expense of opening the office?

A. Yes, sir.

Q. A great deal of that expense is not a continuing expense, is it?

A. We have a pretty heavy expense still.

Q. But a great deal is not a continuing expense, is not that right?

A. Some of those items are not continuing expenses. Furniture and things like that do not continue each month.

Q. Then your figure of $1685 from April to October, would not be typical for the same length of time from October on?

A. No, sir.

Q. It would be less?

A. Probably.

Q. Do not say "probably"—would it or would it not?

A. Yes, sir.

Q. What territory does the Pittsburgh agency handle?

A. Just the City of Pittsburgh.

Q. Is that a regular branch office of the Pictorial Review Company?

A. No, sir.

Q. Have you any employees there at all?

A. Yes, sir.

Q. Who do you have there?

A. We keep a man there all the time.

Q. Then, that is a branch office, is it not?

A. I suppose you mean such as we have at Boston, New York and Atlanta.

Q. Is he a salaried employee?

A. Yes, sir.

Q. You have a "Pictorial Review" name on the office?

A. No, sir.

Q. What is his business there?

A. Just distributing the "Pictorial Review."

Q. One of your paid employees?

A. Yes, sir.

Q. Appointed from Pittsburgh or the main office?

A. From Pittsburgh.

Q. Had he been in your employ before that?

A. No, sir.

Q. Is there anyone else—any other wholesaler for your magazine in Pittsburgh, except this one man?

A. No, sir; there is a branch of the American News Company there.

Q. You still handle some through the American News Company?

A. They handle on a non-returnable basis—quite a very small extent.

Q. You do distribute in Pittsburgh through the American News Company, to a limited extent?

A. Very limited.

Q. You could distribute through the American News Company in Pittsburgh to any extent you saw fit?

A. Through the American News Company?

Q. Yes.

A. Yes, sir.

Q. You could now, could you not?

A. Not to any extent.

Q. Why not?

A. Because they handle on an entirely different basis.

Q. Who changed that basis?

A. We did.

Q. Have you anything to show what your net sales, as you call them, in Pittsburgh were during the three months with the American News Company prior to the period from April to October, 1917?

A. I have not got those figures.

EXAMINER MOORE: We will take a recess now until 2 o'clock.

(Whereupon, at 1 o'clock P. M., a recess was taken until 2 o'clock P. M.)

AFTER RECESS.

(The hearing was resumed at 2 o'clock P. M., pursuant to the taking of recess.)

MR. DALY: There are certain witnesses here from the surrounding country, news dealers, and it seems that tomorrow is their distribution day, and to keep these gentlemen until tomorrow would impose upon them a great hardship, and if the Examiner is willing and counsel on the other side are willing, I would suggest that the cross-examination of Mr. Mackinnon be suspended until tomorrow morning, so that we can put these gentlemen on the stand and get their testimony.

MR. WELCH: We consent to that.

EXAMINER MOORE: Very well, call your first witness.

MR. DALY: We have here a letter dated February 5, 1917, which was sent to certain agents of the Curtis Publishing Company, and counsel on the other side agreed to stipulate that the letter No. 1 is a form that went to certain agents, and Mr. Douglas will stipulate into the record as to where this particular letter went.

MR. DOUGLAS: Letter No. 1 went to Curtis district agents in the United States, excepting Mr. Booth, Mr. Schaffer and a small number of other agents that I requested myself they be sent to.

MR. DALY: Mr. Booth being in New York City and Mr. Schaffer being in Pittsburgh.

MR. DOUGLAS: Yes; there were a few others that I do not remember.

MR. SPIESS: How about Mr. Levy, of Chicago?

MR. DALY: I do not think it went to him.

(The letter referred to was thereupon received in evidence and marked by the stenographer "Commission's Exhibit No. 1," and the same is as follows):

"February 5, 1917.

The plans of another publisher and his agent (news company) lead us to remind you of Clause 13 of your Curtis contract. The purpose and effect of that clause are as follows:

> *With respect to periodicals not previously wholesaled by you, you definitely agreed to refrain from wholesaling to boys or dealers any periodicals not our own without first obtaining our approval.*

Of course, you will be very careful to make with the other publisher or his agent (news company) no arrangement contrary to your Curtis contract.

In justice to you and to avoid any situation which would be embarrassing to both you and us, we feel in duty bound to say that your arrangements with us may be continued only upon the basis stated.

Our relations have been so very pleasant that we hope to be able to supply and serve you indefinitely hereafter.

This is a general letter to all of our district agents. Please attach it to your Curtis contract for future reference.

Very truly yours,

THE CURTIS PUBLISHING COMPANY.

MED *Manager Sales Division.*"

MR. DALY: Letter No. 2 is stipulated in the record in the same manner.

MR. DOUGLAS: Letter No. 2 went to Curtis district agents in the United States, whose sales were 750 or more "Saturday Evening Post" copies, with the same exceptions as before.

(The letter referred to was thereupon received

in evidence and marked by the stenographer, "Commission's Exhibit No. 2," and the same is as follows):

(On letterhead of Curtis Publishing Company.)

"To a few Curtis district agents, statements by another publisher or his representative have given a wrong idea about one clause of your contract with us. Therefore, we again state the effect of that clause:

> You definitely agreed to obtain our approval *before* you make *any* new arrangemnets to wholesale to boys or *dealers* any non-Curtis periodical (magazine).

You are hereby cautioned against any and all advice or solicitation contrary to this part of your contract.

And you will not fail to take notice that the clause covers wholesaling to dealers as well as to boys.

Of course this does not apply to newspapers nor to arrangements in effect before the date of your contract with us.

You may not see why this letter is sent to you. Probably no one has made representations as above. But such statements have been made to others, and we therefore send this general letter to all district agents that all may have a full understanding.

> *At any time hereafter if you should desire to wholesale any other magazine, write for our approval and give us full particulars. This is the sure way to mutually satisfactory arrangements.*

Like our earlier notice dated February 5, this

letter should be attached to your Curtis contract for future reference.

Very truly yours,

THE CURTIS PUBLISHING COMPANY,

MED. *Manager Sales Division.*"

MR. DALY: Now, Letter No. 3.

MR. DOUGLAS: Letter No. 3 went to adult Curtis District Agents in Ohio, Indiana, Illinois and Michigan, whose "Saturday Evening Post" copy sales were over 500, excluding District Agents in the territory of our Chicago branch office.

(The letter referred to was thereupon received in evidence and marked by the stenographer "Commission's Exhibit No. 3," and the same is as follows):

(Copy)

"March 20.

Dear Mr.....

Up to this time only one District Agent has announced his intention to wholesale The Pictorial Review without our approval and in disregard of his contract with us. Prompt action in that case has been taken.

Our former Columbus District Agent was disinclined to confer with us about the matter—seemed not to take our representations seriously.

Today we ratified a P-J-G contract with Mr. C. S. Wilson, Circulation Manager of the Columbus Post-Dispatch, who is to take charge of our agency there, effective with next week's issues.

District Agents elsewhere value their Curtis contracts at their true worth. They realize that there is nothing temporary or uncertain about continued direct supplies of our publications.

Very truly yours,

THE CURTIS PUBLISHING COMPANY,

Dictated by MED *District Manager.*"

MR. DALY: And Letter No. 4 is stipulated in the record in the same manner.

MR. DOUGLAS: Letter No. 4 went to Curtis District Agents in the United States and Canada, excluding District Agents in the territory of the Boston Branch office.

MR. DALY: Which is what?

MR. DOUGLAS: Maine, New Hampshire, Vermont and Massachusetts.

(The letter referred to was thereupon received in evidence and marked by the stenographer "Commission's Exhibit No. 4" and the same is as follows):

(On letterhead of Curtis Publishing Company)

"As perhaps you know, some question has been raised in the past concerning the validity of our contracts with District Agents as applied to the restriction against their WHOLESALING periodicals other than our own except after obtaining our approval.

Until recently the question has never been formally passed upon by the courts. The inclosed copy of a decision just rendered clears up this point.

As our District Agent you will be interested in reading the decision which upholds the position taken by us.

Very truly yours,

THE CURTIS PUBLISHING COMPANY,

MED-WP *Manager Sales Division.*"

MR. DALY: I do not think you have anything about Letter No. 5. I have not seen it before. Have you anything about Letter No. 5?

MR. DOUGLAS: Letter No. 5 went to Curtis District Agents, only who, at the time, we had reason to believe were either then handling other pub-

lications without our sanction—particularly the "Pictorial Review"—or had been approached by the "Pictorial Review," with that in mind.

(The letter referred to was thereupon received in evidence and marked by the stenographer "Commission's Exhibit No. 5," and the same is as follows):

(In pencil marked: March 15-1917.)

"The District Agents who were the first to get a foothold as independent distributors through The Curtis Publishing Company know that we would not urge them into any arrangement that would be apt to result to their disadvantage.

By experience such District Agents have learned that it is wise to maintain good business relations with the publishers who resort to no tricks or subterfuge with you, who never deceive you and who concede to your individual interest everything they can without sacrificing their individual interests and your larger interests.

If you have been told that certain other District Agents are wholesaling any periodical which we have not given you our sanction to wholesale, we hope you have concluded, Mr. ....., that we are the most reliable source from which to obtain truthful information on the subject.

It is quite possible that you have been told, for example, that Messrs. Levy, Peterson, Schafer, Solomon, Katz, Nelson, Reiser, Goodman, etc., have arranged to wholesale other magazines the handling of which we have been unwilling to sanction; but we have put such information squarely up to these gentlemen, and their replies have failed to confirm any such rumors. In fact, they have denied them without qualification.

Let us urge you with all earnestness not to permit yourself to be irritated by any information

along these lines before you have communicated with us, as there is no question but that such baseless information is being circulated with the intention of confusing the minds of those to whom it is sent.

Very truly yours,
THE CURTIS PUBLISHING COMPANY,
MED *Manager Sales Division.*"

---

JOHN C. RAMROTH, called as a witness on behalf of the Commission, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. SPIESS:

Q. What business are you in, Mr. Ramroth?

A. Wholesale newspaper business, at Troy, New York.

Q. How long have you been in that business?

A. Twenty-seven years, this coming January.

Q. Wholesaling?

A. No, sir; I have been in that business about fourteen years.

Q. How long ago was it that you made your contract with the Curtis Company?

A. How long ago?

Q. Yes.

A. Well, I have just, within the past week, signed up a new contract.

Q. I mean your first contract?

A. As near as I can remember, ten years ago.

Q. What were you handling then?

A. I was wholesaling the "Saturday Evening Utica Globe."

Q. What was that?

A. A weekly newspaper published in Utica.

Q. Since then, have you taken on any other magazines?

A. Yes, sir.

Q. What are they?

A. "Collier's Weekly" and the "Literary Digest"—those are the only two magazines I have.

Q. Did you get permission from the Curtis Publishing Company to handle those?

A. No, sir; I did not.

Q. Did you ever handle the "Pictorial Review"?

A. Three issues.

Q. When did you begin handling it?

A. I believe it was May, 1915, or 1917—1917.

Q. May of 1917?

A. As near as I can remember; yes, sir.

Q. When did you stop handling it?

A. I believe the June issue that same year.

Q. I show you a letter of March 5, 1917, and ask you if you wrote it?

A. I did, yes, sir—at least, I dictated it.

Q. And you signed it?

A. Yes, sir.

Q. And you knew what it contained?

MR. SPIESS: I offer that letter in evidence and ask to have it marked.

(The letter referred to was thereupon received in evidence and marked by the stenographer, "Commission's Exhibit No. 6," and the same is as follows):

"J. C. RAMROTH.
101 Third Street.
Troy, N. Y., Mar. 6, 1917.

Pictorial Review Co.,
New York City, N. Y.

Gentlemen:

I regret very much to inform you that I will

be unable to continue the handling of your magazines after the April issue. There is a balance due me from the check I gave your representative which you can send me. I thank you for your past favor and consideration and hardly think it necessary to go into detail regarding my reason for having to give up the wholesale of your magazine as I believe you thoroughly understand my position with another publisher.

Very truly yours,
(Signed) J. C. RAMROTH."

MR. SPIESS: That is admitted without objection?

MR. WELCH: Yes. What is the date of it?

MR. SPIESS: March 6th, 1917.

By MR. SPIESS:

Q. In that letter you state it is not necessary to go into details as to your reason for your giving up the handling of "Pictorial Review," "but you understand my position with another publisher." Will you kindly explain what you meant by that?

A. When I dictated the letter, I was under the impression that the Pictorial Review Company knew that the Curtis Publishing Company objected to their agents handling other magazines.

Q. You were under the impression that the Pictorial Review Company knew it?

A. I beg your pardon?

Q. You say you were under the impression that the Pictorial Review Company knew of the objection?

A. I was; yes, sir.

Q. Did you know of the objection?

A. Did I know that Curtis had an objection?

Q. Yes.

A. I did not until after I agreed to handle it.

Q. Until after that?

A. Yes, sir.

Q. When did you first learn of the objection of the Curtis Company to your handling the "Pictorial Review"?

A. As near as I can remember, about two weeks after I received my first issue of "Pictorial Review," the May issue, which was out April 20th.

Q. How did you get the notice?

A. By telegram.

MR. MILBURN: I have a letter from us to Mr. Ramroth, saying Mr. Kelly would call on him, and that letter was sent April 5. You understand we had notified him by letter prior to that that he could not handle the "Pictorial Review."

MR. SPIESS: What date did you notify him of that?

MR. MILBURN: Here is the letter. (Handing letter to Mr. Spiess.)

By MR. SPIESS:

Q. Did you receive that telegam?

A. Yes, sir; I was wrong about that.

MR. SPIESS: I offer in evidence this telegram dated March 5, 1917, signed by M. E. Douglas, and ask that it be marked "Commission's Exhibit No. 7." Is there any objection?

MR. WELCH: No.

(The telegram referred to was received in evidence and thereupon marked by the stenographer, "Commission's Exhibit No. 7," and the same is as follows):

"(On Blank of Postal Telegraph-Commercial Cables)

March 5, 1917.

J. C. Ramroth,
101 Third Street,
Troy, New York.

Positively cannot continue our Troy agency

in the hands of a wholesaler who also distributes the Pictorial Review. Letter follows.

M. E. DOUGLAS."

By MR. SPIESS:

Q. After you received this notice to discontinue handling the "Pictorial Review," what did you do?

A. I believe I notified the Pictorial in that letter you just showed me.

Q. Did you handle it after this warning?

A. The copies were in at that time—the second issue.

Q. You say the copies were in for the May issue?

A. If I remember rightly; yes, sir.

Q. Did you send a check to the Pictorial Review Company to cover those copies?

A. Of what issue?

Q. The May issue.

A. I did not send it. I gave it to one of their representatives.

Q. Was that check ever returned to you?

A. No, sir; it was not.

Q. After the May issue, did you handle any other issue?

A. If I remember correctly, I think I handled the June issue.

Q. Any other?

A. No other that I know of.

Q. Just the two issues?

A. Yes, sir.

Q. Why did you stop handling the "Pictorial Review"?

A. I was directed to do so by that telegram.

Q. That stopped you?

A. Yes, sir.

Q. That is what influenced you to stop handling the "Pictorial Review"?

A. Yes, sir.

Q. How many copies of "The Saturday Evening Post" do you handle?

A. Two thousand.

Q. A week?

A. Yes, sir.

Q. How many copies of "The Country Gentleman" do you handle every week?

A. 240.

Q. 240 per week?

A. Yes, sir.

Q. How many copies of "The Ladies' Home Journal" do you handle a month?

A. It varies.

Q. Can you give an approximate number?

A. An average month, why, 1500.

Q. 1500 per month?

A. Yes, sir.

Q. What means of distribution have you for these magazines?

A. Auto service.

Q. If you were handling the Curtis Publishing Company's periodicals alone, would that be sufficient to enable you to maintain an auto?

MR. WELCH: Do not answer that, please. I object to that as incompetent, calling for a speculation and calculation on the part of the witness, based on his opinion.

EXAMINER MOORE: Do you withdraw that question?

MR. SPIESS: No.

EXAMINER MOORE: The objection is sustained.

By MR. SPIESS:

Q. What is your monthly income from the handling of the Curtis publications?

A. About $60.

Q. $60 a month?

A. Yes, sir; not including the bonuses.

Q. You get a bonus?

A. Yes; for extra sales, and work I do at different times.

Q. You have an office?

A. I do; yes, sir.

Q. For the handling of the publications by wholesale only?

A. Yes, sir.

Q. Do you rent it or own it?

A. I rent it.

Q. How much rent do you pay?

A. $12.50 per month.

Q. Do you have electric lights or gas?

A. Gas.

Q. What is the average cost of gas per month?

A. About a dollar.

Q. Can you say that if you were handling Curtis publications alone, during a month, that the income to you would be sufficient to make it worth while to you to maintain an auto and a place for handling and conduct your business?

MR. WELCH: Do not answer that. I object to that for the same reason, "make it worth your while"—it calls for mere speculation and conjecture.

MR. SPIESS: I contend that a man can certainly tell whether an income of $60 a month would enable him to rent an office at $12.50 a month, and pay a dollar a month for gas and maintain an auto.

MR. WELCH: You can figure that out yourself.

MR. SPIESS: That is what I am asking him to do.

EXAMINER MOORE: The objection is sustained.

By Mr. Spiess:

Q. You handle newspapers, do you not?

A. I do, yes, sir.

Q. What is your monthly income on newspapers?

A. $100 per month.

Q. Net?

A. Net. Well, that is a rough guess. I cannot give you exact figures.

Q. This contract of the Curtis Company requires you to take a certain number of copies per month?

A. They put a quota to it; yes, sir.

Q. What happens if you do not sell that quota?

A. My experience with the Curtis Company during the time I have held their agency is that I have never fell below my quota but twice, and they have always allowed me full returns privilege. I have never lost by it.

Q. Do you handle "Every Week"?

A. No, sir.

Q. Did you ever handle it?

A. I did not; no, sir.

Q. Ever try to handle it?

A. No, sir.

Q. Never tried to handle it?

A. I withdraw that last answer. I said I did not. I did for one week.

Q. Just state now what were the circumstances of your handling and giving it up.

A. It was about the same conditions that I gave up the "Pictorial Review."

Q. What were those conditions?

A. The Curtis objections.

Q. How did they present these objections to you about "Every Week"?

A. I do not just remember.

Q. You do not remember?

A. No, sir.

Q. But there was an objection made?

A. Yes, sir.

MR. SPIESS: That is all.

EXAMINER MOORE: Cross-examine, Mr. Welch.

CROSS-EXAMINATION.

By MR. WELCH:

Q. Mr. Ramroth, you have been shown a telegram that you received from the Curtis Publishing Company. I will ask you if this letter, signed by you, and which you sent to the Curtis Publishing Company in reply to that telegram——

A. That is my letter; yes, sir.

MR. WELCH: I offer that in evidence. I suppose there is no objection to it. It is in reply to this telegram which has been put in.

MR. SPIESS: We object to the admission of this letter, because it is incompetent, irrelevant and immaterial to this issue, and there has been nothing brought out in the direct examination referring to this matter.

MR. WELCH: Will the Examiner read it? It is a reply to the telegram already put in.

MR. SPIESS: It is an expression of this man's opinion as to what is fair and what is unfair.

MR. WELCH: It is an answer to the contention that the agents are dissatisfied.

MR. SPIESS: We have not put forth anything to the effect that the agents are dissatisfied. We are proceeding here for a violation——

MR. WELCH: I respectfully submit that when they put in a telegram sent by us to one of our men, we are entitled to put in his reply.

EXAMINER MOORE: The letter will stand for what it is worth, and I am inclined to allow its introduction.

(The letter referred to was thereupon received in evidence and marked by the stenographer, "Respondent's Exhibit No. 1," and the same is as follows):

"(On letterhead of J. C. Ramroth.)

Troy, N. Y., Mar. 10, 1917.

(Stamped: Received Mar. 12, 1917. Ladies H. Journ. 4.)

(Stamped: Received Mar. 13, 1917. F. M. B.)

Curtis Publishing Co.,
Philadelphia, Pa.

Gentlemen:

Your telegram and letter regarding the Pictorial Review received and I have informed the said company to discontinue my supply. I can readily see that it is no more than fair on your part in not wanting Curtis agents to handle the Pictorial Review as it is a competitor to the Journal in one sense and above all I don't blame you for objection to some other publisher using an organization that you have built at a great cost, besides hard and patient years of work. In order to do what was fair with the Pictorial Company I put out the April number which I had ordered and paid for previous to receiving your telegram or letter as you are ware (?) you gave me permission to handle it among dealers only before the controversy started. Hoping this is satisfactory to you.

Yours very truly,

(Signed) J. C. RAMROTH."

By MR. WELCH:

Q. Mr. Ramroth, you say you have been in the newspaper business twenty-seven years?

A. Yes, sir.

Q. And at first you did nothing but the wholesaling of newspapers?

A. Yes, sir.

Q. When did you first begin the wholesaling of the Curtis Publishing Company's publications, acting as their district agent—do you remember what year that was?

A. In December, 1905, I believe.

Q. December, 1905?

A. Yes, I believe it was.

Q. And at that time, you were wholesaling no magazines, periodicals or publications of any character other than newspapers?

A. I was not; no, sir.

Q. You have since taken on the wholesaling of "Collier's Magazine" and the "Literary Digest"?

A. Yes, sir.

Q. You do no retail business?

A. No, sir.

Q. You were asked about the income on your Curtis publications and newspapers. Will you tell me what the monthly income on "Collier's" is, if you have it?

A. About three dollars per month.

Q. And on the "Literary Digest"?

A. About twelve dollars.

Q. About twelve dollars per month?

A. Yes, sir.

Q. At the time you started as the district agent for the Curtis Company, in 1905, how many newspapers did you handle?

A. One weekly—the "Saturday Utica Globe."

Q. And what newspapers do you now handle?

A. The "New York Evening World" and the "New York Evening Telegram."

Q. Are those all that you handle now?

A. That is all.

Q. They bring in a monthly income of $100, as you testified?

A. They do.

Q. What have been your duties with respect to your agency for the Curtis Publishing Company since you became their agent and have been selling their periodicals wholesale—generally, what have been your duties?

A. To remit in advance——

Q. I mean your duties?

A. To look after the promotion work, and look out for the boys and other service.

Q. I did not quite hear you.

A. To look out for the promotion work and the boys and service with the dealers.

Q. What do you mean by looking after the promotion work?

A. Getting new boys and instructing them in the business.

Q. Who instructed you how to instruct the new boys?

A. The Curtis Publishing Company.

Q. And what you are doing in that respect, you are doing as a result of your previous instructions and experience with the Curtis Publishing Company?

A. Yes, sir.

Q. Do they furnish you with boys from time to time to fill up any vacancies?

A. Often their representative comes around and solicits boys.

MR. WALSH: That line of questioning is objected to as not proper cross-examination. This witness was called for the purpose of showing, and of showing that he was forbidden to handle the "Pictorial Review" and "Every Week," upon objection of the Curtis Publishing Company. Nothing was said in the direct examination—no examin-

ation was gone into with this witness—in reference to any so-called organization of boys. If the respondent desires to offer any proof upon that subject, they will have an opportunity to offer it as a matter of defense.

By MR. WELCH:

Q. What where your duties as agent for the Curtis Company with respect to the reports that you have to make to them every week—the contents of those reports?

MR. SPIESS: We make the same objection.

THE WITNESS: My duties——

MR. SPIESS: Wait a minute.

MR. WELCH: What is your objection to that? This is the cross-examination of this witness who is handling magazines of the respondent. Why not let him state his duties?

MR. WALSH: The question of the agency was not gone into at all. An effort was made to get him to sell the "Pictorial Review," and it was impossible to do so because of the objection of the Curtis Publishing Company. The question of his duties as agent for the Curtis Publishing Company was not gone into at all. He was examined in chief upon the refusal of the Curtis Publishing Company to allow him to handle the "Pictorial Review." There was nothing said about his being an agent for the Curtis Publishing Company.

MR. WELCH: I have a right to find out what the extent of his agency was. He went into the question of rent and gas and automobile hire, and as to that his monthly income was from other papers, and I am asking him what his duties were as our agent, as he says he was. I submit a man can describe what his duties were, and that it is proper cross-examination.

EXAMINER MOORE: You may answer.

THE WITNESS: My duty was to report to my office each week as to the net sales, giving an itemized list of each boy and dealer.

Q. And the amounts?

A. Yes, sir.

Q. Would you mention each boy by name?

A. By name and address.

Q. And you would mention each dealer?

A. By name and address; yes, sir.

Q. Any other duties in connection with the general distribution of the magazines?

A. No other duties that I know of.

MR. WALSH: This testimony is objectionable on the further ground that it appears now that these so-called agents were under contract, and the contract is in evidence here, and all the duties of the so-called agents or these wholesalers are incorporated within that contract, and this testimony has a tendency to vary the terms of a written contract and is objectionable.

MR. WELCH: Do I understand Mr. Walsh to say that he is objecting to the testimony on the ground that it varies the terms of a written contract? Is that your objection, Mr. Walsh?

MR. DALY: I did not quite hear, but I believe that the witness has answered the question.

MR. WALSH: I did not hear the witness answer it.

(The stenographer repeated the question and answer.)

By MR. WELCH:

Q. You testified about your monthly income being sixty dollars, but that that did not include a bonus. For what was that bonus given?

A. If we sold a certain amount over, I was allowed an extra amount.

Q. Anything in the nature of prizes for promoting sales?

A. It was really through promoting sales that I would secure my bonus.

Q. In addition to the sums which you were paid, which you testified to as your monthly income, were you paid anything extra or any bonus sums for coaching these boys in making sales; that is, the League of Curtis Salesmen?

MR. DALY: That is objectionable on two grounds.

MR. WELCH: What are they?

MR. DALY: One is that there was no testimony as to coaching these boys.

MR. WELCH: I am asking on cross-examination if he did not receive that in addition to what he testified to.

MR. DALY: He said that he did not have any duties in addition to what you have asked him.

MR. WELCH: Read that question and answer.

(The stenographer repeated the question and answer referred to.)

MR. WELCH: Now read the last question.

(The stenographer repeated the last question.)

MR. WELCH: Now you may answer that.

THE WITNESS: Yes, sir.

MR. SPIESS: Wait a minute.

MR. DALY: I withdraw the objection.

THE WITNESS: Yes; the Curtis Publishing Company pays—I do not know exactly the amount—but it pays the agents that——

MR. WALSH: That answer is objected to, and I ask that it be stricken out.

MR. WELCH: I will consent to it being stricken out. Just answer what you received.

THE WITNESS: What was the question?

MR. WELCH: Please read the question.

(The stenographer repeated the question.)

THE WITNESS: Yes; I was.

By MR. WELCH:

Q. How much—do you remember?

A. There was a different scale on the different promotions of the boys from salesmen to master salesmen. I do not know what the amount was.

Q. Does that payment exist at the present time?

A. It does, I believe.

Q. Do you know?

A. It does.

Q. Have you, in addition to the matters that you have testified about, been paid anything extra for engaging boys that were obtained through Curtis advertisements?

A. One dollar per boy.

Q. That is in addition to everything else that you have testified about?

A. Yes, sir.

Q. I show you a letter, Mr. Ramroth, purporting to be signed by B. A. Mackinnon, Circulation Director of the "Pictorial Review," addressed to you, dated March 8th, 1917, and ask if you received that letter? (Handing letter to witness.)

A. I did; yes, sir.

MR. WELCH: I would like to have that marked for identification. I am not offering it yet.

(The letter referred to is marked by the stenographer, "Respondent's Exhibit 2 for Identification.")

MR. WELCH: That is all.

WILLIAM O'REILLY, called as a witness on behalf of the Commission, being duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. SPIESS:

Q. What business are you in, Mr. O'Reilly?

A. I am in the wholesale distribution of magazines, papers and stationery.

Q. Where?

A. Kingston.

Q. How long have you been in that business?

A. Twenty-one years.

Q. How long have you been under contract with the Curtis Company?

A. Well, as near as I can remember—I do not know definitely—it has been about seven years.

Q. When you first began the wholesale business, what did you do to develop this business?

A. What is that?

Q. What was required of you to develop your wholesale business when you began twenty-one years ago—what did you do to build this business up?

A. The wholesaling of magazines?

Q. Whatever you were in—how long have you been in the wholesale business?

MR. WELCH: The wholesaling of what?

MR. SPIESS: He stated he was wholesaling magazines and newspapers.

THE WITNESS: In the wholesale magazine business.

By MR. SPIESS:

Q. How long have you been in the wholesale business of handling newspapers and magazines?

A. I should judge about ten years.

Q. What did you do prior to that?

A. I ran a stationery store and news store.

Q. Did you wholesale any newspapers prior to that?

A. Not that I know of.

Q. How long have you been under contract with the Curtis Company now?

A. About seven years.

Q. That would be three years that you were in the wholesale business, before you started handling Curtis publications?

A. Yes, sir.

Q. What did you handle in that wholesale business?

A. I handled the "Evening Journal."

Q. What was that?

A. A newspaper.

Q. Is that all that you handled?

A. Yes, sir.

Q. How did you handle that?

A. How did I handle that?

Q. Yes.

A. We had a distribution to the dealers and a few boys.

EXAMINER MOORE: Will you please read the answer?

(Stenographer repeated the answer.)

By MR. SPIESS:

Q. Did you ever handle the "Pictorial Review"?

A. Not in the wholesale business.

Q. Did you ever attempt to handle it in the wholesale business?

A. No, sir.

Q. Were you ever approached to handle it by anyone connected with the Pictorial Company?

A. Yes; I received a letter asking me to take the agency.

Q. What did you do after you received the letter?

A. I replied that I did not want it.

Q. Nothing was said to you by anyone connected with the Curtis Company about handling the "Pictorial Review," or not handling it?

A. Well, I would not be sure about that. There were two publications—may I go on and say something?

MR. SPIESS: Yes.

THE WITNESS: There were two publications at almost the same time, looking for wholesale distributors.

By MR. SPIESS:

Q. What were they?

A. I think it was "Every Week" and the "Woman's Home Companion," and "Pictorial Review."

Q. Now, you have named three. You said at first it was two. Which was it?

A. I had in mind, when I mentioned the three, "Every Week" and "Woman's Home Companion" combined.

Q. That is all right; go ahead. Now, what did you do when you were approached to handle the "Pictorial Review"?

A. Why, I wrote them—it was either the "Pictorial Review" or the "Woman's Home Companion" —but I replied that I did not care to take the agency.

Q. You say that you do not recall whether or not you were ever written to or spoken to by anyone in the Curtis Company relative to your not handling the "Pictorial Review"?

A. I did receive a letter from the Curtis Company.

Q. To what effect?

A. I do not remember just what the wording was.

Q. To what effect was this letter?

A. It was, I believe, a circular letter, sent out to all agencies.

MR. WALSH: Do you know whether that was sent out to all dealers? Just tell us about the letter that you received.

THE WITNESS: It was very short, and did not have no particular name to it that I know of—as I remember it. I have no record of the letter, but as I remember it, it just stated that there was some magazine looking for an agent, and they would ask their agents before taking it up, to write them or something to that effect.

Q. You say that you have a recollection of receiving a letter to the effect that it would be objectionable to the Curtis Company if you should handle the "Pictorial Review" or "Every Week"—is that what you wish to convey?

A. Something like that.

Q. Don't you know?

A. No, sir.

Q. I show you a copy of a letter marked "No. 1," that was put in by Mr. Douglas, and ask you if that was the letter that you received? (Handing letter to witness.)

MR. WELCH: Are you trying to find what was sent him?

MR. SPEISS: Yes.

MR. WELCH: We will produce that letter, if you wish it.

MR. SPIESS: That will be alright, then.

MR. MILBURN: I said we would have them as you went along.

MR. SPIESS: I thought I gave you the names of the witnesses that we were going to call.

By MR. SPIESS:

Q. I show you a letter dated Kingston, New York, February 14th, 1917, which has been marked for

identification, "Exhibit No. 9," and ask you if that is the letter that you wrote to the Curtis Publishing Company, in reference to handling the "Pictorial Review"? (Handing letter to witness.)

A. Yes.

MR. SPIESS: I offer this in evidence as "Commission's Exhibit No. 9," if there is no objection.

MR. WELCH: There is no objection.

(The letter referred to was thereupon received in evidence and marked by the stenographer, "Commission's Exhibit No. 9," and the same is as follows:)

"WILLIAM O'REILLY.
350 Broadway.
Kingston, N. Y., February 14, 1917.

Curtis Publishing Co.,
Circulation Dept.,
Philadelphia, Pa.

Gentlemen:

Referring to your recent communication regarding the taking over of the distribution of magazines of any other publisher. I have just received an offer from 'Pictorial Review' they wish me to take up the distribution of their magazine in this city, and I wrote to ask you if this would in any way interfere with our contract, along with the distribution of the Ladies' Home Journal, Country Gentleman and Saturday Evening Post.

In their offer to me they positively state there will be no street sales or boys distributing the above. Simply selling to the dealers.

Kindly let me know if the taking up of the distribution of the above magazine will in any way interfere with your magazine, if so, I will at once reply to them in this way.

Yours very truly,
WILLIAM O'REILLY."

MR. SPIESS: I now hand you a copy of a letter dated February 16th, 1917, from the Curtis Publishing Company to you, marked for identification Commission's Exhibit No. 8, and ask you if that is the reply that you received to the letter marked Commission's Exhibit 9?

THE WITNESS: Yes.

MR. SPIESS: We offer this in evidence as Commission's Exhibit No. 8.

MR. WELCH: Very well.

(The letter referred to is thereupon received in evidence and marked by the stenographer, "Commission's Exhibit No. 8," and the same is as follows):

"February 16th, 1917.

Mr. William O'Reilly,
530 Broadway,
Kingston, New York.

Dear Mr. O'Reilly:

In reply to your letter dated February 14:

We think our mutual interests, yours and ours in common, will be best served by your not making any arrangements to wholesale the other periodical referred to.

One fundamental fact stands out prominently: There is a limit to the number of periodicals seeking circulation among readers of the same class, which a district agent can handle without taking on the limitations of a branch of the news company. We have district agents because we need representatives free from such limitations. You are our valued representative because you have heretofore been free from such limitations.

For these reasons we shall be very glad if you advise the other publisher to the effect suggested

in the last paragraph of your letter. At your convenience we shall be glad to have a line or two from you confirming our understanding of the action to be taken.

With kindest regards to you personally,

Very truly yours,

THE CURTIS PUBLISHING COMPANY.
*District Manager.*

Dictated by
MED SM"

By MR. SPIESS:

Q. I now hand you a letter dated Kingston, New York, February 19th, 1917, signed William O'Reilly, and ask you if that is the letter that you wrote in answer to the Curtis Publishing Company's letter of February 16th, 1917, marked Commission's Exhibit No. 8?

A. Yes.

MR. SPIESS: I offer this in evidence as Commission's Exhibit No. 10.

(The letter referred to is thereupon received in evidence and marked "Commission's Exhibit No. 10," and the same is as follows):

"WILLIAM O'REILLY
350 Broadway

Kingston, N. Y. February 19th, 1917.

Curtis Publishing Co.,
Circulating Dept.,
Mgr. M. E. Douglas,
Philadelphia, Pa.

Dear Sir:

Replying to your favor of the 16th inst., regarding the handling of the periodical referred

to in my letter of the 14th, I would say I have already informed this publisher that I will not take up the agency for the distribution of their magazine.

Trusting this will be satisfactory to you, I am

Yours very truly,

WILLIAM O'REILLY."

By MR. SPIESS:

Q. What other magazines do you wholesale now, Mr. O'Reilly?

A. The Hearst publications.

Q. Is that all?

A. And the Munsey publications.

Q. Any more?

A. That is all.

Q. How many "Saturday Evening Posts" do you handle per week?

A. About 650.

Q. About how many "Country Gentlemen"?

A. About 100.

Q. How many "Ladies' Home Journals"?

A. Well, it varies from 360 to 400.

MR. SPIESS: That is all.

CROSS-EXAMINATION.

By MR. WELCH:

Q. You began the wholesaling of magazines with the magazines of the Curtis Company; is that right?

A. Yes, sir.

Q. You mean magazines and periodicals also?

A. Yes, sir.

MR. WELCH: That is all.

SAMUEL RACHELES, called as a witness on behalf of the Commission, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. SPIESS:

Q. What kind of business are you in?

A. Wholesale newspaper business.

Q. What is your full name?

A. Samuel.

Q. What?

A. Racheles.

Q. And your residence?

A. 37 Garden Street, Passaic, New Jersey.

Q. What business are you engaged in?

A. Wholesale newspapers, periodicals and magazines.

Q. How long have you been engaged in that business?

A. Oh, about ten or twelve years.

Q. How long?

A. About ten or twelve years.

Q. What were you handling in this wholesale business at that time—when you first began, what did you handle?

A. When I first began, I handled the "Evening World."

Q. What next?

A. The next, all the New York papers.

Q. How long have you been under contract with the Curtis Company?

A. I believe since 1914—February 28th, 1914.

Q. From the time that you started in business up to February 28th, 1914, just state what periodicals and newspapers you handled in the wholesale business.

A. In 1914, I handled all the New York papers except the "American."

Q. Any magazines?

A. No; no magazines.

Q. Before you started in with the Curtis Publishing Company——

A. No, sir.

Q. What magazines do you handle now?

A. The Hearst publications, "Collier's Weekly," Munsey's publications, "Saturday Evening Post," and the Curtis publications.

Q. Do you handle the "Pictorial Review"?

A. No, sir.

Q. Did you ever handle it?

A. I handled that for a month.

Q. You handled it for a month?

A. Yes, sir.

Q. What month did you handle it?

A. I handled it for the first month, when the "Pictorial" went with the independent — independent agents.

Q. What happened then?

A. Then I did not want to handle it.

Q. Why not?

A. Well, I received a telegram from the Curtis Publishing Company at that time that I should come out to Philadelphia.

Q. About what time was that?

A. I could not tell you the date.

Q. About what month?

A. I could not tell the date.

Q. Do you know the month?

A. It was the same time when the "Pictorial Review" broke up with the News Company.

Q. You mean about May—is that approximately it, about May, 1917?

A. Yes, sir.

Q. Did you go to Philadelphia?

A. Yes, sir.

Q. What occurred there?

A. I was called into Mr. Douglas's office. Mr. Douglas told me that he felt that I would not give proper attention to the Curtis Publishing Company papers if I would handle the "Pictorial Review."

Q. And what did you say to Mr. Douglas?

A. Well, I told Mr. Douglas that I did not believe that it would hurt the publications of the Curtis Company, because the "Pictorial Review" comes out on the 10th and the "Ladies' Home Journal" comes out on the 20th. There is ten days difference in time. So I did not see why it hurt.

Q. How many "Saturday Evening Posts" do you handle a week?

A. About 600.

Q. How many "Country Gentleman"?

A. About 75 or 100.

Q. How many "Ladies' Home Journals"?

A. Also between 500 and 600.

Q. Did you ever handle "Every Week"?

A. No, sir.

Q. Ever try to handle it?

A. I never did.

Q. Do you know what publication it is?

A. Yes, sir.

Q. Anyone ever come to you to handle it—to get you to handle it?

A. No.

Q. But you had this conversation with Mr. Douglas in Philadelphia, eh?

A. Yes, sir.

Q. And after you had this conversation with Mr. Douglas in Philadelphia, what position did you take in reference to handling the "Pictorial Review"?

A. Well, I came home. I believe I seen Mr. Snow,

the representative of the "Pictorial Review" in Passaic, and I told him that I could not handle it.

Q. You could not handle it any more?

A. No, sir.

Q. What did Mr. Douglas say to you when you told him that because the "Pictorial" came out on a different date from the "Ladies' Home Journal" that it would not interfere with your efficient handling of both papers or magazines?

A. Well, if I recollect, Mr. Douglas told me that this was the only magazine which was in the style of "The Ladies' Home Journal."

Q. Repeat that again, please.

A. That the "Pictorial Review" is in the style of "The Ladies' Home Journal"—it is a ladies' magazine—and so was the "Pictorial Review," and that is the reason that he thought it would interfere with the selling of his publications.

Q. The publications of the Curtis Publishing Company?

A. Yes, sir.

Q. What happened after you talked this matter over with Mr. Douglas—what else did he say to you?

A. Mr. Douglas?

Q. Yes.

A. Nothing else that I know of.

Q. Then you left and came home?

A. Yes, sir.

Q. Did you, or did you not, as a result of this conversation that you had with Mr. Douglas, stop handling the "Pictorial Review"?

A. Yes, sir.

Q. And that was the reason why you stopped?

A. Yes, sir.

Q. How many "Pictorial Reviews" were you handling then?

A. Well, about three or four hundred.

Q. How many?

A. Three or four or five hundred—I could not tell you how many it was.

MR. SPIESS: You may cross-examine.

MR. WELCH: I have no questions.

MR. DALY: Mr. Examiner, Mr. Beck is here, and I think we had better dispose of that matter of his at this juncture, as he desires to leave.

---

THOMAS H. BECK was recalled and testified further, as follows:

CROSS-EXAMINATION (Resumed).

By MR. WELCH:

Q. Mr. Beck, in your former testimony you spoke of having renewed efforts to get certain wholesalers who were district agents of the Curtis Publishing Company to take on the magazine that you represent, "Every Week"?

A. I do not believe I made that statement—I think I said to get certain newspaper wholesalers to take on "Every Week."

Q. Yes?

A. But not the Curtis agents.

Q. Now, on page 128 of the record, you say:

> "These wholesalers that we have gotten recently, since we renewed our efforts, are practically, without exception, under this contract that is in this case; that is, this exclusive contract, and these agents, under pledge of secrecy to our company, have violated that contract, or intend to."

The question I asked was with respect to telling me the number of persons or wholesalers who acted as

agents for the Curtis Publishing Company under this contract that you obtained under a pledge of secrecy or confidence, as you put it, to handle the magazine that you published—"Every Week." I ask the number of those persons, that is, I asked for it, and I now ask you for that number again.

A. May I make a statement to you, and to the Examiner?

EXAMINER MOORE: Yes.

THE WITNESS: I would like to say in the first place that I am here by a subpœna, and not through choice. I have testified to the truth as far as I know it. I have no unfriendly feeling, but at the same time recognize a very keen state of competition, and I ask to be excused from answering that question because I would be revealing facts that, as competitors, you could use to our very serious disadvantage.

MR. WELCH: I am not asking you to reveal the addresses.

THE WITNESS: The extent to which we are operating is a matter of material value—I consider it so. I will go a step further and say that we have been told that if these negotiations are learned that we will be left—to use a slang phrase—flat with our publication; that an attempt will be made to cancel the arrangement we have made. Further than that, I do not mind stating this, that we intend to go into the matter on an extensive scale, because I believe, through the newspaper franchises, we can secure the independent wholesalers. In other words, make it a part of the newspaper franchise, that they shall handle our publications.

MR. MILBURN: Irrespective of whether they are our agents?

MR. WELCH: You know there are certain persons in this country who are acting as wholesalers for the Curtis publications. That is what we mean.

THE WITNESS: I know that you call them your agents. I do not.

MR. WELCH: Do you decline to answer that question?

THE WITNESS: I ask to be excused by both you and by the Examiner.

MR. WELCH: I am perfectly willing to excuse you and waive any rights we may have in that respect.

EXAMINER MOORE: The Examiner excuses the witness from answering the question by consent of counsel for the respondent.

---

HARRY A. BRAELOW, called as a witness on behalf of the Commission, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. SPIESS:

Q. What is your full name?

A. Harry A. Braelow.

Q. Where do you live?

A. Newark.

Q. New Jersey?

A. Yes, sir.

Q. What business are you in?

A. In the wholesale distribution of newspapers and magazines.

Q. Where?

A. Newark.

Q. How long have you been in that business?

A. Six years.

Q. What publications do you handle?

A. At the present?

Q. Well, what did you first handle? What publications did you first handle?

A. I started with the "New York American."

Q. What publications do you now handle?

A. The entire Hearst group of publications, the "New York American," daily and Sundays; the "Evening Journal," the "Digest Journal," and other Hearst publications, and a local German publication. As to magazines, "Collier's," the "Every Week," the "Etude" and a few other minor publications which are independent.

Q. Were you ever under contract with the Curtis Publishing Company?

A. I was.

Q. For how long?

A. For a period of about a year and a half.

Q. Are you still under contract with them?

A. No, sir.

Q. When did you cease operating under their contract?

A. About last April a year ago.

Q. Why did you stop operating under their contract?

A. I did not stop. They stopped me.

Q. Give the circumstances under which they stopped you?

A. I made arrangements to handle a publication called "Every Week"; "Every Week" being a New York publication, I found it agreeable to take on the agency, and the next thing I knew, I got a long distance call from Mr. Barnes, who is not with the Curtis Company any more.

Q. What did he say?

A. He said, "I understand that you are violating your contract."

Q. What else? What else did he say?

A. I explained to him and asked that I would like to have him send a man out and go into this matter, if I was violating the contract.

Q. Did he send a man?

A. A letter followed.

Q. Have you a copy of the letter?

A. I believe you have it right there.

Q. Do you know what date it is?

A. February or March.

Q. And I now show you a letter dated March 8th, 1916—is not that a wrong date on there?

THE WITNESS: No; it is 1916.

MR. MILBURN: 1916 is correct.

THE WITNESS: This is in reference to "Every Week."

By MR. SPIESS:

Q. I show you this letter, and ask you if that is the letter that you received from the Curtis Publishing Company?

A. Yes.

MR. SPIESS: I offer this in evidence as Commission's Exhibit No. 11.

(The letter referred to is thereupon received in evidence and marked by the stenographer "Commission's Exhibit No. 11," and the same is as follows):

"March 8, 1916.

Mr. Harry A. Braelow,
Newark Newsdealers Supply Company,
196 Halsey Street,
Newark, New Jersey.

Dear Mr. Braelow:

Our Mr. Van Pelt tells us that he understands you have made or contemplate making an arrangement to wholesale a certain periodical or magazine contrary to a provision in your agreement with us.

It is difficult for us to believe that you have made such an arrangement or that you would make such an arrangement.

Nevertheless, in justice to you, and to avoid any situation which would be embarrassing to both you and us, we feel it our duty to say that if you were to undertake it we should wish to cancel your arrangements with us.

Our relations have been so very pleasant and satisfactory that we hope to be able to supply and serve you indefinitely hereafter.

Very truly yours,

THE CURTIS PUBLISHING COMPANY,
(Signed) M. E. DOUGLAS,
*Manager Sales Division.*"

MED BEL.

By MR. SPIESS:

Q. After receiving that letter, what did you do with reference to "Every Week"?

A. I went over to the "Every Week" headquarters, to the circulation manager, a man then by the name of Mr. Bresneham, and told them what the Curtis Company were trying to put over.

MR. WELCH: I move to strike that out.

EXAMINER MOORE: I think that part of the answer, "trying to put over," might be stricken out.

THE WITNESS: I mentioned to Mr. Bresneham that I felt I was in hot water. He asked in what way, and I answered the publication I took over of his—that the commission on it nowhere near covered the amount I was making on the Curtis publications. He asked what action I was going to take, and I told him because of the possibility of other publications breaking away—of which there were many rumors—that I was not going to bind myself to any individual publication.

I then went back to our office and took it up with my partners at Newark, and we caused an answer to be sent to Mr. Douglas of the Curtis Publishing Company of which you have a copy there, I believe.

Q. Then what happened?

A. Mr. Van Pelt and Mr. Barnes came on to Newark, and attempted to induce me to continue handling the agency for the "Post"; that I must give up "Every Week." We went into a private conference and I refused pointblank to give up any individual publication. I told them that after I signed a contract with them I was not going to be limited to any publication, after signing. I was told, "You have a thousand dollars up on your bond, you remember," and I said, "All right, I will see about that later." The next thing I got notice that I was through. That was after the March issue. They took away the April issue.

Q. Did you lose your bond?

A. A thousand dollars.

Q. Did you lose that?

A. No, sir.

Q. You got that back?

A. Yes, sir.

Q. What else happened?

A. Since then—it just happened at that time Mr. Douglas was in Toronto. He had not been at the Home Office. When he came back I received a letter regretting the trouble that started in Newark; that he wished he had been in Philadelphia, and that we could probably have settled it in a different way. I thought there was a possibility of coming to an agreeable understanding with the Curtis Publishing Company, and went down to Philadelphia with my partner, to get an audience with Mr. Douglas, and Mr. Douglas referred me to a man named Grosjean.

MR. MILBURN: Was this after you lost the contract?

THE WITNESS: Yes, sir.

MR. MILBURN: Then I object to it as immaterial.

MR. SPIESS: I agree that that be stricken out.

By MR. SPIESS:

Q. At this conversation that you had with Mr. Douglas, was anything said to you about making another contract with the Curtis Publishing Company?

MR. MILBURN: Which conversation is that?

MR. SPIESS: The conversation after Mr. Douglas came back.

MR. MILBURN: I object to the terms of this conversation they refer to, because it was after he lost his Curtis agency.

MR. SPIESS: We want to find out, Mr. Examiner, whether they tried to get him back after firing him.

EXAMINER MOORE: The objection is overruled.

By MR. SPIESS:

Q. Just go ahead.

A. I went down with Mr. Bannon to Philadelphia.

Q. Who is he?

A. My partner. Mr. Douglas turned me over to Mr. Grosjean.

Q. What position did he occupy?

A. Mr. Barnes' previous position, head of five states, New Jersey included, and over the roadmen and the service of that territory. We got into a room with Mr. Grosjean and explained the benefits they were enjoying while in our hands and which they would continue on enjoying, and we did not see why such action had been taken, and would like to continue as their agents. Various questions were asked both me and Mr. Bannon about the Newark situation, and the final

outcome was he said, "You know, boys, I am not the boss; Mr. Douglas is the boss."

Q. The Newark situation in reference to what?

A. In reference to the trouble they had with "The Saturday Evening Post," "The Ladies' Home Journal," and "The Country Gentleman."

Q. Did they have any trouble?

A. I learned from some letters I received from Mr. Douglas later—I received a letter threatening that this whole——

MR. MILBURN: Just a moment. I think this question is entirely irrelevant.

EXAMINER MOORE: Do you insist on the question?

MR. WALSH: We want to know the effect of the conversation, so far as it relates to his effort to embark on the handling of their other periodicals.

EXAMINER MOORE: Is the question so worded?

MR. WALSH: I think so. I think the witness was attempting to give the contents of the letter which I think is objectionable, but I think we are entitled to have in the record the statement of this witness as to the entire negotiations in reference to his losing the agency.

MR. MILBURN: But this was after the termination of his agency.

MR. SPIESS: We had reached the point where the witness had testified he went to Philadelphia because Mr. Douglas had written him a letter that if he, Mr. Douglas, had been back at the time the agency was cut off, it would not have happened; that some other arrangements had been made and he went over to Philadelphia.

MR. MILBURN: Have you that letter?

EXAMINER MOORE: The objectionable part is his reference to the contents of that letter. If you have the letter, introduce the letter.

By Mr. Spiess:

Q. Did you bring a copy of the letter?

A. I do not know. I might have it or you might have it. There is a copy of that letter in existence somewhere.

Mr. Spiess: I will not insist on the question.

By Mr. Walsh:

Q. What other negotiations did you have with any of the representatives of the Curtis Publishing Company in reference to handling their publications by your firm, if any?

A. New negotiations, did you mean?

Q. At this time?

A. I had not closed up my old negotiations, because I did not have the bond back, and I was considered to be under their supervision and practically under their rules until my money was received back.

Mr. Milburn: I move to strike that out.

By Mr. Walsh:

Q. What talk did you have with these gentlemen in reference to your agency at that time when you went to Philadelphia?

A. I talked with Mr. Douglas, winding up with Mr. Grosjean, to the effect that Mr. Grosjean had said, among other things, "You know I am not the boss here; I will recommend, but would you, under any considerations, consider giving up 'Every Week,'" and just then I believe some other publication was in question which he did not know, which was breaking away, but I do know he said would I give up "Every Week," and our answer was probably if they would make it worth while. By that I meant a salary in addition to commissions.

By Mr. Spiess:

Q. What else was said?

A. That was practically the end of our negotia-

tions with the Curtis Publishing Company until—that is, as far as I was concerned—Mr. Douglas—no, no; Mr. Bannon went down again, and I do not know what occurred there, but that was the entire situation, as far as the "Post" was concerned with the Newark News Dealers Supply Company. We finally received our thousand dollars with interest back and other securities we had, and a refund of the money paid in advance for publications, amounting to fourteen or fifteen hundred dollars.

MR. SPIESS: That is all.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. What was the date you took over the Curtis agency?

A. I do not know the exact date. I took over the minor agency in the Oranges.

By EXAMINER MOORE:

Q. What do you mean by "the Oranges"?

A. All the Oranges, East Orange, West Orange—suburbs of the city of Newark.

By MR. MILBURN:

Q. Then that was extended later on?

A. No, sir; every agency was a separate contract.

Q. Your main agency you held about a year and a half, and during that time that you were operating a Curtis agency you never wholesaled "Every Week," did you?

A. During the operation of the Curtis contract?

Q. Yes.

A. I did wholesale "Every Week" for a period of about three months.

Q. Before, I mean.

A. No, sir; not before.

Q. When the "Every Week" question came up or arose, then occurred your disagreement, and then you were fired?

A. Yes, sir.

Q. At the time you signed the contract, you testified you intended to wholesale "Every Week"—is that correct?

A. At the time I signed the contract for the Curtis Publishing Company, I intended to continue along with anything that came along from the American News Company.

Q. In other words, you did not intend to keep the contract you signed?

MR. WALSH: That is objectionable as calling for a conclusion on the part of the witness.

MR. MILBURN: That is all.

RE-DIRECT EXAMINATION.

By MR. SPIESS:

Q. What equipment have you for the distribution of your magazines and periodicals to the retail trade?

A. An equipment combined of rolling stock, help, various other means of distribution, trolley service to the extent of a payroll of about $900 a week——

Q. What does the equipment consist of?

A. About eight Ford cars, two Mack trucks, the service of the trolley companies of New Jersey for transporting papers to and from various points, the service of five special trolley cars on Sunday morning, hired by myself for the sole purpose of distributing our publications.

Q. How long have you had this equipment?

A. It gradually grew up, but started as a very big equipment on June 1st, about four or five years ago. I can get the records. I do not know exactly.

Q. You were so equipped when you were handling

the Curtis publications—very well equipped, as you stated here?

A. My original deal with the Curtis Publishing Company was through the fact I sent them a letter notifying them that I could give them the best delivery service they ever had in Newark. That started our negotiations.

RE-CROSS-EXAMINATION.

By MR. MILBURN:

Q. You are the best—the biggest and best wholesaler in Newark?

A. Yes, sir.

Q. The Curtis Company have another wholesaler there now?

A. Yes, sir.

MR. MILBURN: That is all.

---

WILLIAM G. SUTTLE, called as a witness on behalf of the Commission, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. SPIESS:

Q. Please state your full name.

A. William G. Suttle.

Q. Give your address, please.

A. 294 Strait Street, Paterson, New Jersey.

Q. State what your business is.

A. Wholesale newspaper business, cigars, periodicals and magazines.

Q. How long have you been in this business?

A. Twenty-five years.

Q. You have been wholesaling for twenty-five years?

A. Yes, sir.

Q. Are you under contract with the Curtis Company?

A. Yes, sir.

Q. How long have you been under contract with them?

A. I think about eight or ten years.

Q. Prior to entering into a contract with the Curtis Company, what periodicals or magazines did you wholesale?

A. Munsey magazines and several other magazines that were in the business before that in Chicago and at other points, and they came down to me to build up their business, and when I built it up they took the business to the American News Company. I do not know the names, but I know I have been a good man all my life to build up business, and then have the publisher take it away and give it to someone else.

Q. After you entered into a contract to handle the Curtis publications, what other magazines did you handle?

A. Collier's magazine, the "Literary Digest"; and I believe Munsey wrote me and wanted me to handle their magazines again, but I told them no.

Q. When you took on a new magazine after you entered into a contract with the Curtis Company, did you always ask their permission when you took it on?

A. I never asked anybody's permission.

Q. You never have?

A. No, sir.

Q. Did they ever say anything to you about getting their permission to handle any other magazine?

A. I believe that one of my clerks told me they did.

Q. They never said anything to you?

A. No, sir; they never said anything to me personally.

MR. MILBURN: I move to strike out that answer.

By MR. SPIESS:

Q. Did you hear this yourself?

A. I was out on business, looking after some other line of business, and when I came in one of my clerks informed me of it.

Q. Informed you an agent of the Curtis Company had been there—is that what he informed you?

A. No——

MR. MILBURN: I withdraw the objection.

THE WITNESS: I cannot state whether it was a letter from Mr. Douglas from the home office to me, or whether one of the road men had been there and informed them to that effect. The newspaper business does not keep me, and so I do not bother so much with it.

Q. What was the information you received from the Curtis Company?

A. I understood the clerk told me we should not handle the "Pictorial Review."

MR. SPIESS: It is admitted by counsel for respondent that Mr. Suttle was in some way notified by letter, or representatives of the Curtis Publishing Company, that he could not handle the "Pictorial Review."

MR. MILBURN: Yes; that if he was within the district specified, a form letter was mailed to him.

MR. SPIESS: Yes.

Q. Did you ever handle the "Pictorial Review"?

A. No, sir.

Q. Did you ever attempt to handle it?

A. No, sir.

Q. Did anyone ever approach you about handling it?

A. Yes.

Q. Who?

A. Mr. Snow.

Q. What did you do after Mr. Snow approached you?

A. I recommended for the young man to handle it.

Q. You recommended for the young man to handle it?

A. Yes, sir.

Q. The young man who was working for you?

A. Yes, sir, he was working for me, but not in Paterson; he was working in Passaic at the time.

Q. Did he handle it?

A. Yes, sir.

Q. Did the Curtis Company object to him handling it?

A. Why would they object to that?

Q. This boy was not working for you when he handled the "Pictorial Review"? That was outside of your agency?

A. He was outside of my jurisdiction there; he was in Passaic.

Q. He was not under contract with the Curtis Publishing Company?

A. No.

Q. Did you ever handle "Every Week"?

A. No, sir.

Q. Did you ever try to handle it?

A. One of the agents approached me and I told him I was not ready to take it in just now at the time, and he said to me, "What is the matter? Are you scared of the Curtis Publishing Company?" I said, "No, they don't support me; I don't see why I should be scared of them; I have to earn all I get." That was my answer to him.

Q. What equipment have you for distributing newspapers and magazines to retailers?

A. Vim trucks, horse and wagon, and trolley service.

Q. How long have you had this equipment?

A. About fifteen or twenty years, the horse and wagon service and trolley, but the automobile service was put into effect about three years ago.

Q. How long were you under contract with Curtis?

A. I could not say; I did not look that up, but eight or ten years, I guess.

Q. Then you had rolling stock before you entered into a contract with the Curtis Publishing Company?

A. Yes; I was a good deal richer then than I am now. That is no fault of Curtis, however. They did everything right by me.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. You said you have been in business about twenty-five years?

A. Yes, sir.

Q. And that your main business is confectionery, and that the magazine wholesale business is on the side; isn't that so?

A. Fifty-fifty.

Q. Before you took the Curtis contract, which was about ten years ago, I believe you said——

A. Somewhere around that, yes.

Q. Before that, had you wholesaled any other magazine?

A. Yes, sir.

Q. What magazines were they?

A. The monthly publications and several other magazines that I could not mention their names.

Q. What were they?

A. There were a couple from Chicago and a couple from New York.

Q. Which ones?

A. I could not remember now; I have never handled so many different ones.

Q. Were they big publications?

A. Fairly big. Just as soon as they got up, they took it away from me, and gave it to the American News Company.

Q. Before you took on your Curtis contract, you had one or two of those, and they had taken them away from you?

A. Yes.

Q. And afterwards you entered into the Curtis contract?

A. Yes.

Q. You refused to handle both the "Pictorial Review" and "Every Week," I think you said?

A. Yes.

Q. Did your refusal have anything to do with the Curtis Company at all?

A. With the "Pictorial Review" I kind of refused on account of being an agent of the Curtis Publishing Company, because I considered that they would be after me and I did not want to lose them at that time.

Q. You knew that your contract with them prohibited your taking other agencies without their consent?

A. I knew that, but at the same time if I wanted to take another one, I did it whether they wanted me to or not.

Q. But you did not want to take another one in this instance?

A. No.

ROBERT J. CALLAHAN, called as a witness on behalf of the Commission, having been duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. SPIESS:

Q. What is your full name, Mr. Callahan?

A. Robert Joseph Callahan.

Q. What is your address?

A. 51 James Street, Albany, New York.

Q. State what business you are in, Mr. Callahan.

A. Wholesale news dealer.

Q. What?

A. Periodicals, magazines, newspapers, and so forth.

Q. Where?

A. In Albany.

Q. How long have you been engaged in this business?

A. About ten years.

Q. Have you a contract with the Curtis Publishing Company?

A. Yes, sir.

Q. How long have you had this contract?

A. About four years, this last contract.

Q. I mean since the first contract you ever made with them?

A. About seven years.

Q. Can you tell when you first contracted with the Curtis Company?

A. Just what was the first date?

Q. The approximate month and year, yes.

A. It was about the month of October, seven years ago.

Q. Prior to that time, October, 1910, what did you handle in your wholesale business?

A. What did I handle?

Q. Yes.

A. Just the "American" and "Journal" at that time; no magazines.

Q. No magazines?

A. No, sir.

Q. After you contracted with the Curtis Company, what magazines did you handle?

A. I had the Munsey publications and the Hearst publications, and about every independent magazine that came along at that time, "Breezy Stories," and several others.

Q. Did you always get permission from the Curtis Company when you took on a magazine?

A. No, sir.

Q. Why?

A. I never made any suggestion to them at all. I did not say anything to them about it.

Q. Did you not know that the terms of your contract required that?

A. I believe so.

Q. You did not comply with your contract?

A. I did not pay much attention to my contract, because I had received similar contracts previous to that——

MR. MILBURN: I move to strike out the reasons.

EXAMINER MOORE: The latter part of his answer will be stricken out as to his reasons.

Q. Did you ever handle the "Pictorial Review"?

A. No, sir.

Q. Did you ever make any effort to handle it?

A. I was about to make an effort; yes, sir.

Q. Did you ever make an effort?

A. No, I did not.

Q. Would you consider sending a $1000 check, or a $100 check to a publisher for magazines, an effort?

A. For a first refusal, or something like that.

Q. Would you consider that an effort to obtain that magazine?

A. Partly; yes, sir.

Q. Then you did make an effort?

A. Yes, sir; I did.

Q. Did you distribute that magazine?

A. No; not myself.

Q. Why?

A. After coming to that part, I understood it would be obnoxious to the Curtis people, and I sent word to the Pictorial people that I could not do business with them and to refund the money that I sent to them.

Q. How did you know it would be objectionable to the Curtis Company?

A. It seems at that time some representative called on me, I do not know who he was, and he stated that.

Q. Stated what?

A. Stated that it would not be good policy for me to handle the "Pictorial Review."

Q. Why?

A. I do not just remember what was his real reason at that time.

MR. MILBURN: I object to his reasons. They have letters from the company culled from our files, which have been placed at their disposal, which explains the whole situation.

MR. SPIESS: I am just asking him to repeat what the agent of the Curtis Company told him was the reasons. I just want to know. If he does not know, that settles it.

EXAMINER MOORE: Proceed.

MR. SPIESS: Have you a copy of the letter that you sent?

MR. MILBURN: Yes; I handed you a copy.

MR. SPIESS: You stipulate that you did send it?

MR. MILBURN: There are three or four.

Q. I hand you a copy of a letter dated February 20, 1917, marked "Commission's Exhibit 12" from the Curtis Publishing Company, and ask you if you ever received the original of that letter?

A. Yes, sir.

MR. MILBURN: No objection.

MR. SPIESS: I now offer this letter in evidence, without objection.

(The letter so offered was received in evidence and marked "Commission's Exhibit No. 12," and is as follows):

"February 20, 1917.

Mr. Robert Callahan,
51 James Street,
Albany, New York.

Dear Mr. Callahan:

From a District Agent in a city adjacent to you, we have received a letter reading in part as follows:

> 'Yesterday a representative from the office of the Pictorial Review called on me. He said that he had signed up with the Curtis District Agent for Albany.'

Upon the reply sheet inclosed will you please tell us whether or not you have made or contemplate making, any arrangements to wholesale the Pictorial Review to *newsdealers* in Albany?

The request is made within rights given us by Clause 13 of your agreement with us as referred to in our letter dated February 5.

We thank you in advance for an early reply. With kind personal regards,

Very truly yours,
THE CURTIS PUBLISHING COMPANY,
*District Manager.*

Dictated by MED SM."

By MR. SPIESS:

Q. I now hand you "Commission's Exhibit No. 13," a letter dated Albany, New York, March 1st, 1917, to the Curtis Company, and ask you if that is the letter you sent?

A. Yes, sir.

MR. SPIESS: I offer that in evidence.

(The letter was received in evidence and thereupon marked by the stenographer "Commission's Exhibit No. 13," and the same is as follows):

"(Letterhead of Robt. J. Callahan)

Albany, N. Y., March 1st, 1917.

The Curtis Publishing Co.,
Philadelphia, Penn.

Gentlemen:

I beg to advise you that I have not signed contract to distribute the Pictorial Review.

You will please pardon my tardiness in answering your letter of February 20th.

Very truly yours,
(Signed) ROBT. J. CALLAHAN.

(Stamped: Daily Mail Mar 2 1917 Scatter)
(Stamped: Recd Mar 2 1917 PM Ladies' H. Jour.)"

By MR. SPIESS:

Q. I show you a telegram under date of March 3, 1917, marked "Commission's Exhibit No. 14," addressed to M. A. Douglas, signed R. J. Callahan, and ask you if that is a telegram you sent?

A. Yes, sir.

MR. SPIESS: I offer that in evidence.

(The telegram was received in evidence and thereupon marked by the stenographer, "Commission's Exhibit No. 14," and is as follows):

"(On blank of Western Union—Yellow)
155 PM 9 Collect Albany NY 405 PM March 3 1917
M A Douglas Curtis Pub Co Phila Pa

Havent made any arrangements with Pictorial Review whatever

R J CALHAN 426 P M"

By MR. SPIESS:

Q. I now show you a copy of a letter from the Curtis Company dated March 6th, 1917, and ask you if that is a copy of the letter you received?

A. Yes, sir.

MR. SPIESS: I offer that letter in evidence.

(The letter was received in evidence and thereupon marked by the stenographer "Commission's Exhibit No. 15," and the same is as follows):

"March 6, 1917.

Mr. Robert E. Callahan,
51 James Street,
Albany, New York.

Dear Mr. Callahan:

Because your letter dated March 1 placed emphasis upon your not having signed a contract with The Pictorial Review, we wired to ascertain whether you had made any arrangements to wholesale it without a contract.

Your telegraphic answer dated March 3 is gratifying to us. For, frankly, we could not continue our Albany agency in charge of a wholesaler also distributing the Pictorial Review.

We are much interested in any increased local effort for larger sales of THE COUNTRY GENTLEMAN and are willing and anxious to pay handsome, liberal bonuses for increases in net sales of THE COUNTRY GENTLEMAN during months to follow.

With kind personal regards,

Very truly yours,

Dictated by MED SM."

THE CURTIS PUBLISHING COMPANY,
*District Manager.*

By Mr. Spiess:

Q. I now show you copy of a letter dated May 24, 1917, from the Curtis Company, marked "Commission's Exhibit No. 16," and ask you if that is a copy of the letter you received?

A. Yes, sir.

Mr. Spiess: I offer it in evidence.

(The letter was received in evidence and thereupon marked by the stenographer "Commission's Exhibit No. 16," and is as follows):

"May 24, 1917.

Mr. Robert H. Callahan,
51 James Street,
Albany, New York.

Dear Mr. Callahan:

On March 6 we wrote you a letter of which the first paragraph was as follows:

'Because your letter dated March 1 placed emphasis upon your not having signed the contract with The Pictorial Review, we wired you to ascertain whether you had made any arrangements to wholesale it without a contract.'

Our wire, above referred to, was under date of March 3, as follows:

'Have you made any arrangements to wholesale The Pictorial Review without a contract? Answer collect.'

Your telegraphic answer on March 3 was as follows:

'Have not made any arrangements with Pictorial Review whatever.'

Mr. B. A. Mackinnon, Circulation Director of The Pictorial Review, recently stated that on Feb-

ruary 19, 1917, his company received your check dated in advance for $100.00; the expectation being that your said check would be used to pay for copies of The Pictorial Review to be wholesaled by you.

Please compare the above statement by Mr. Mackinnon with your telegram dated March 3 to us. On March 3 you advised us that you had not made any arrangements whatever with The Pictorial Review, yet Mr. Mackinnon has stated that on February 19—twelve days before the date of your telegram—his company then had your said check for $100.00.

Our only purpose in writing this letter is to obtain from you a statement that will throw some light upon the accuracy of Mr. Mackinnon's statement which seems to be contrary to your statement to us. Assuming your telegram dated March 3 to be truthful it does not appear how Mr. Mackinnon's statement can be truthful. Or, stating it the other way, if Mr. Mackinnon's statement is truthful, it does not appear how your statement by telegram dated March 3 could have been truthful.

Is it true that you mailed to The Pictorial Review Company your check for $100.00 for copies of the Pictorial Review and that you mailed said check before February 19?

We ask the question merely for the purpose of verifying the truthfulness of the statement made by Mr. Mackinnon.

Please be good enough to reply by telegram at our expense.

Thanking you in advance,

Very truly yours,

Dictated by MED SM."

THE CURTIS PUBLISHING COMPANY,
*District Manager.*

MR. WELCH: Are you offering them all, Mr. Spiess? Are you offering both the telegrams and the letters?

MR. SPIESS: Yes, sir. That connects the whole story right up.

MR. MILBURN: There is another telegram there.

MR. SPIESS: I do not want that.

MR. WELCH: Why not put the whole correspondence in? We will offer them.

MR. SPIESS: You can offer that, Mr. Welch, if you want to, on cross-examination.

MR. WELCH: We do not object to any of that subject to the entire correspondence being put in in chronological order.

By MR. MILBURN:

Q. I will ask you if that is a telegram sent by you in connection with this affair, and will you read it and say——

MR. SPIESS: I am not through with the witness yet. There is time enough for that on cross-examination, it seems to me.

MR. MILBURN: We will withdraw all our objections to the proof going in, in accordance with our agreement, and I ought to have a right to not let it all in and then find something which is refused.

MR. SPIESS: I stated that Mr. Welch could put that in if he wanted to.

MR. MILBURN: That is all right. I thought you might have an objection.

EXAMINER MOORE: Is there any objection to it going in at this time, Mr. Spiess?

MR. SPIESS: No, I think not.

MR. MILBURN: That may be marked in evidence?

EXAMINER MOORE: Yes.

MR. SPIESS: It is offered in evidence by counsel for the respondent?

MR. MILBURN: Yes.

(The telegram was received and marked "Commission's Exhibit No. 17," and the same is as follows):

"(On Western Union Telegram Blank (yellow.)

C253 NY 144 Coll Blue
Albany NY 110P
Curtiss Publishing Co
Ar Dpt Philadelphia Penn

About Feb 1st Mr Korb who maintained he was to represent about 10 magazines that were to be given to independent agencies called on me and suggested that I become distributor for Albany at the time I informed him I was not sure that I could accept his proposition but would let him know eventually He insisted I place security if I did accept his proposition and I gave him check for $100.00 dated 30 days from date of interview This was to give me time to ascertain if I could accept his proposition Feb 15th I notified Mr. Korb that I would not do any business with him and to return check to me which closed the matter Hence my telegram to you of Mch 3rd

ROBT J CALLAHAN 51 James St."

By MR. SPIESS:

Q. Mr. Callahan, how many "Saturday Evening Posts" do you handle?

A. About 2600.

Q. How many "Country Gentlemen"?

A. 400.

Q. How many "Ladies' Home Journals"?

A. 1500 per month.

Q. Did you ever handle a publication called "Every Week"?

A. Yes, sir.

Q. Do you handle it now?

A. No, sir.

Q. How long did you handle it?

A. Not very long; about six or eight issues, something like that; a couple of months.

Q. When was that?

A. Almost two years ago, I think.

Q. Why did you stop handling it?

A. The representative of the Curtis Company suggested that it was not best to continue.

Q. What do you mean by "suggested"? Did he suggest, or did he tell you that it was not?

A. He did not threaten me in any way.

Q. Did he tell you it was not best?

A. Partly, yes, sir.

Q. Just came out and told you. He did not suggest, he told you, did he not?

A. Yes, sir.

Q. What did he say to you?

A. He told me that it was in violation of my contract, and that the office—I do not just remember what he said, but that was the principle of the thing.

Q. What did you do then?

A. I stopped it.

Q. And that was the reason why you stopped it?

A. Yes, sir.

Q. What equipment have you for the wholesale distribution of your magazines to retailers?

A. Automobile service and wagons.

Q. How long have you had this service?

A. I have had it ever since I have been in business; that is, I have had the wagon service.

Q. That is how long?

A. Ten years.

Q. And you have been under contract with Curtis about four?

A. This last contract for four years, but I have been doing business with them for about seven years.

Q. You have always had plenty of rolling stock?

A. Oh, yes, sir.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. With reference to your rolling stock, has your business increased?

A. Have I more business now than ten years ago?

Q. Yes.

A. Oh, yes.

Q. As your business increases, you have had to increase your business facilities?

A. Yes, sir.

Q. In this relationship with the Curtis people, have you earned bonuses from time to time?

MR. SPIESS: I object to that. There was not a thing in my examination that brought out the question of bonuses. I have not asked for costs or what he made at all.

MR. MILBURN: My cross-examination is not confined to the particular precise question he has asked. I have the right to explain this relationship.

MR. SPIESS: But it is outside of the direct examination. It has no bearing whether he got a bonus or not to handle the Curtis publications.

MR. MILBURN: I should like to be heard.

EXAMINER MOORE: I will hear you.

MR. MILBURN: He has testified that he is a Curtis agent, that he is operating under a Curtis agency. The character of the agency is an issue

here, and on cross-examination if I do not have the right to go into the character of that agency, I do not see that I have a right to go into anything except the precise words of Mr. Spiess, and I will be limited to how many copies of the newspaper were sold, which is immaterial. I have a right to show this agency, and show what it is, the whole agency. It is testified to that he is an agent, and we have limited in certain ways the agency, and our contract enables us to so limit it. I cannot see what else the contract does. It is a new limitation in law to me.

MR. SPIESS: Personally, Mr. Examiner, I do not see what difference it makes whether or not he has a bonus, but it does not have any bearing on this case, and it does not have any bearing on my direct examination. There was not anything said about a bonus or how much he made, or how much he lost, and there was no intimation, and there has not been any intimation on the side of the Commission that these men are Curtis agents. They handle magazines for other publishers, and we are not standing up here to go into a question of agency. I object to it.

EXAMINER MOORE: Objection is overruled.

Q. In working under that contract, you are entitled to a certain bonus, are you not?

A. Yes, sir.

Q. And you have earned the bonuses from time to time, have you?

A. Yes, sir.

Q. What are the rest of your duties under that contract, as to making reports, and things like that?

A. I did not understand that question.

Q. You have to make reports also to the Curtis Company, do you not?

A. Yes, sir.

Q. Reports that detail the copies sold?

A. Yes.

Q. Reports that detail what the boys are doing; is that not true?

A. Yes, sir.

Q. In those reports, do you specify the names and addresses of these boys?

A. Yes, sir.

Q. And these boys are furnished some by the Curtis Company, and some furnished by their aid?

MR. WALSH: The question is objected to.

MR. MILBURN: I will withdraw the question.

Q. I will ask you where you got these boys, and ask you to describe how you got them.

MR. WALSH: Objected to as not proper cross-examination.

MR. SPIESS: What have the boys got to do with this?

EXAMINER MOORE: Objection sustained.

MR. MILBURN: Exception.

---

EDWARD RILEY SNYDER was called as a witness on behalf of the Commission, and having been first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. SPIESS:

Q. Mr. Snyder, give your full name?

A. Edward Riley Snyder.

Q. What is your residence, please?

A. 52 Easton Avenue, New Brunswick, New Jersey.

Q. What is your business?

A. Wholesaler, retailer, tobacconist and news dealer.

Q. What have you handled in the wholesale business?

A. Tobacco, newspapers, magazines, post cards.

Q. How long have you been in the wholesale business?

A. Eight years, and in the newspaper business further back.

Q. How long have you been in the wholesale business of newspapers or magazines?

A. I should say since the early '90's.

Q. What publications have you handled in wholesale, since early in the '90's?

A. The originator of it was "The Saturday Evening Post."

Q. That was your first agency?

A. Yes, sir.

Q. Before you began handling newspapers?

A. Selling newspapers; that was my first agency, "The Saturday Evening Post."

Q. In wholesale?

A. Yes, sir.

Q. How long have you had a contract with the Curtis Company?

A. I believe I had one of the original ones.

Q. How long is that?

A. When they were first issued; I could not state definitely how long.

Q. Can you not recall the year?

A. No; I was a youngster.

Q. Since you have been under contract with the Curtis Company, what other magazines have you handled in the wholesale trade?

A. "Munsey's," the Hearst group, "The Literary Digest," "Every Week," "Pictorial Review."

Q. Did you always get permission from the Cur-

tis Company before you began handling these other magazines?

A. I did not.

Q. Why not?

A. I ought to, but I did not.

Q. I asked you why not?

A. There is no reason. I simply went on with the business.

Q. Did they ever say anything to you for not getting this permission?

A. Yes, they have.

Q. In what cases?

A. According to the contract.

Q. In what cases did they say anything to you about handling other magazines without their permission?

A. Well, that was regarding the "Every Week" and "Pictorial Review."

Q. When did you handle "Every Week"?

A. I could not say definitely that: I suppose several years back.

Q. How long did you handle it?

A. A very short period.

Q. Why did you give up handling "Every Week"?

A. I do not know whether they told me to give it up or whether it was regarding returns, some bookkeeping method between the "Every Week" publication and myself.

Q. You say you do not know?

A. I do not know it; I cannot recall it.

Q. You have handled the "Pictorial Review"?

A. I have.

Q. For how long?

A. Since the beginning of the agency taken from the American News Company to give to the different news dealers. I think it was in the early part of 1917.

Q. You do not handle it now, do you?

A. Not at present.

Q. State why you stopped handling the "Pictorial Review"?

A. I received a telephone call, and as a friendly tip I simply got from under; that was all.

Q. What do you mean by this telephone call? Explain it. From whom did you receive it?

A. I get so many telephone calls from different people at the store, but I think it was a representative of the Curtis Publishing Company.

MR. WALSH: Just make a frank statement of what the relations were with the Curtis Company with reference to handling the "Pictorial Review."

THE WITNESS: Well, they never bothered me on the "Pictorial" end until recently.

Q. Just state what they did.

A. Just the telephone message I received.

Q. From whom?

A. I believe it was Mr. Hall.

Q. Don't you know?

A. It was his voice.

Q. Who is Mr. Holl?

A. The district superintendent of the State.

Q. Of what company?

A. The Curtis Publishing Company.

Q. How do you spell that?

A. I do not know whether it is H-u-l-l or H-o-l-l.

MR. MILBURN: H-o-l-l.

Q. What did he say in this telephone communication?

A. He said "take a friendly tip and get out from under." That is all.

Q. That is all he said?

A. That is all he said.

Q. Did you ever receive a letter from the Curtis

Publishing Company objecting to your handling other publications without their permission?

A. My contract requires that.

Q. Did you ever receive a letter from them?

A. No, I did not, unless there was a special letter sent out, which I am not sure whether I have or not. The mail I get is so voluminous, I do not read it all myself, and I tell the young man at the store to give to me what is important.

MR. SPIESS: Mr. Examiner, it has been stipulated that in certain territory in which the Curtis Company has contracts with distributors, that they send a letter and it is marked here No. 1, relative to the exclusive clause in their contract, and the witness is in that territory in which this circular letter has been sent.

MR. MILBURN: We will admit that.

MR. SPIESS: And they stipulate that he did receive one.

Q. What did you do in response to this telephone message from Mr. Holl?

A. I sent a letter to the Pictorial Review Publishing Company.

Q. To what effect?

A. I told one of the representatives to come out to see me. I simply said the word "Urgent" on it.

Q. Did one come out to see you?

A. He did.

Q. What happened?

A. What I have repeated here before regarding Mr. Holl.

Q. What was that?

A. To get out from under the "Pictorial Reriew."

Q. I mean, what did you do when the "Pictorial" representative came to see you?

A. I gave up the agency.

Q. You gave it up through him?

A. Yes, sir; I gave it up.

Q. Did you write anything about it?

A. No. I said that I had better give it up, that I did not want to get in trouble with Curtis.

Q. You said that to him?

A. Yes.

Q. How many "Saturday Evening Posts" do you handle?

A. 530.

Q. How many "Country Gentlemen"?

A. 80

Q. How many "Ladies' Home Journals"?

A. An average sale of about 525.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. Are those figures per month or per year?

A. The average sales per month.

Q. And you began a business as a magazine wholesaler with the Curtis people?

A. I did.

Q. And you built up your business around their agency?

A. I would not say that.

Q. Was that your first agency?

A. It was an incentive.

Q. How do you distribute the publications in which you deal?

A. Trolley car, automobile, newsboys.

Q. And you have distributed all of the publications you have handled through those same agencies, have you? You do not differentiate between one publication and another?

A. I try not to.

Q. Did you say that you are handling "Pictorial" now?

A. Not at present.

Q. Do you know who is handling "Pictorial Review" in your district at the present time?

A. I do not.

Q. Was your agency originally in the name of George Snyder?

A. George Snyder, yes.

Q. George Snyder was your father?

A. Yes.

Q. George Snyder is not connected with the New Brunswick News Company?

A. Yes, he is. He is connected with the New Brunswick News Agency.

Q. Do you know whether the New Brunswick News Agency is handling the "Pictorial Review"?

A. Not at present.

Q. They do not in any way use your wagons, or your facilities now?

A. Not at present.

Q. But they did in the past?

A. They have.

RE-DIRECT EXAMINATION.

By MR. SPIESS:

Q. What days of the month does "The Ladies' Home Journal" come out on?

A. On the 20th; they have changed recently.

Q. But I mean going back.

A. With the new year they are going to change.

Q. They have not changed it yet?

A. No.

Q. What date of the month did the "Pictorial Review" come out on?

A. The original date was set as the 10th.

Q. Did they come out on that date?

A. Sometimes on the 9th; it would all depend upon whether Sunday fell on the 10th.

Q. Around the 9th or 10th of the month?

A. Yes, sir.

Q. How many "Pictorial Reviews" did you handle?

A. I would say the average since the agency began, until the time I gave it up, was about 140 copies per month.

Q. How many months did you have the "Pictorial Review"?

A. Up to and including the December issue.

Q. From the May issue to the December issue?

A. Yes, sir.

Q. Did the handling of the "Pictorial Review" interfere with your efficient handling of other magazines?

MR. MILBURN: I object to that as calling for a conclusion of the witness, based on his calculations.

MR. SPIESS: Mr. Examiner, this witness certainly ought to know whether or not his handling of one periodical interferes with the efficient handling of another. I think he can certainly state that of his own knowledge.

MR. DALY: That matter was put in issue by counsel on the other side in their answer.

EXAMINER MOORE: He may answer.

(Question repeated.)

A. No, he did not.

RE-CROSS-EXAMINATION.

By MR. MILBURN:

Q. You could not devote all of your time to the handling of a Curtis publication, if you were devoting any of it to the handling of a Pictorial publication?

A. Yes; the income would be greater.

MR. MILBURN: I move that that be stricken out. I do not think Mr. Snyder understood me.

EXAMINER MOORE: Strike it out.

Q. I asked you this question. You could not devote all of your time to the Curtis publications, if you devoted any time to the "Pictorial," could you?

A. I could not.

By MR. SPIESS:

Q. Mr. Snyder, you could not devote all of your time to the Curtis publications if you handled any other magazine, could you?

A. Not for a decent living nowadays.

Q. I am not talking about that. We are talking about the time consumed. You could not devote all of your time to it if you devoted any of your time to other magazines, could you?

A. No.

By MR. MILBURN:

Q. Just in so far as you handle another magazine——

A. I believe in the spirit of co-operation.

MR. MILBURN: I move this answer be stricken out.

EXAMINER MOORE: Objection sustained; strike it out.

---

A. M. PIERSON, called as a witness on behalf of the Commission, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. SPIESS:

Q. What is your full name?

A. Abraham M. Pierson.

Q. What is your address?

A. 25 Commercial Avenue, Binghamton, New York.

Q. What business are you in?

A. Wholesaling newspapers and magazines.

Q. How long have you been in that business?

A. Over three years.

Q. What magazines and newspapers, if any, did you handle wholesale in those three years? What publications and periodicals have you been wholesaling in those three years that you have been in the wholesale business?

A. The Hearst publications, the Curtis publications and the Munsey publications.

Q. Any newspapers?

A. The "American," "Tribune," "Times," "Herald," "Telegram" and "Journal."

Q. All wholesale?

A. Yes, sir.

Q. Have you got a contract with the Curtis Company?

A. Yes, sir.

Q. How long have you had this contract?

A. Since April 23, 1915.

Q. That is a little less than three years?

A. Two years on October 23rd, 1917.

Q. Prior to your entering into a contract with the Curtis Company, what did you handle?

A. I handled the Hearst publications, the "New York American," the "New York Herald," the "Telegram" and the "Journal."

Q. Did you ever handle the "Pictorial Review"?

A. No, sir.

Q. Did you ever try to handle it?

A. I tried to handle it, yes, sir.

Q. Relate what your efforts were in attempting to handle the "Pictorial Review."

A. I just attempted to handle it before I read my contract over.

Q. What did you do in attempting to handle it? Did you see anyone, or did anyone see you?

A. I sent an order for "Pictorials."

Q. For what month?

A. For the May issue only.

Q. Did you get them?

A. I did not get them.

Q. Why not?

A. Because I found out that it was against my contract and I had them transferred.

Q. How did you find that out?

A. After I got a notice that I was violating my contract.

Q. From whom?

A. From the Curtis Publishing Company.

Q. In the form of what?

A. In the form of a letter.

Q. Calling your attention to your contract?

A. Yes, sir; that I should have gotten permission from them first.

Q. Did you ask for that permission?

A. No, sir.

Q. When you got notice from the Curtis Company that you should have asked for its permission, what happened?

A. I immediately withdrew; in fact, I did not have any "Pictorials," so I did not have to withdraw anything. I just wrote the Pictorial that owing to my contract with the Curtis Publishing Company, which does not allow me to take on any other publications without their consent, I told them to get another agent.

Q. You told who to get another agent?

A. The "Pictorial Review."

MR. SPIESS: May I see the correspondence on that?

(Correspondence handed to Mr. Spiess.)

Q. Did you pay any money to the "Pictorial Review"?

A. Yes, sir.

Q. How much?

A. I do not know how much it was.

Q. How many copies did you order?

A. About 600, I should imagine.

Q. Did you remit for the whole 600?

A. Yes; I sent a check at the time.

Q. What happened after you refused to accept the "Pictorial Reviews"?

A. You see, I turned it over to another man entirely.

Q. Turned what over?

A. Turned the copies over.

Q. Did you receive the copies?

A. No, sir.

Q. How could you turn them over?

A. I informed the "Pictorial Review" people that I could not handle them.

Q. And they turned them over?

A. Yes, sir.

Q. What happened then?

A. He has been the agent ever since.

Q. I show you Commission's Exhibits 18, 19, 20, 21, 22, 23 and 24, and ask you if it is correspondence passed between you and the Curtis Publishing Company with reference to your not handling the "Pictorial Review."

MR. MILBURN: He does not have to read them. I can glance over them and admit it, probably.

THE WITNESS: Yes.

MR. SPIESS: I now offer these exhibits, 18 to 24, inclusive, in evidence.

MR. MILBURN: No objection.

EXAMINER MOORE: Received and marked.

(The correspondence was received in evidence and thereupon marked "Commission's Exhibits Nos. 18 to 24, inclusive," and the same are as follows):

COMMISSION'S EXHIBIT NO. 18.

"A. M. PIERSON
*Publishers' Distributor*

Binghamton, N. Y., Mar. 8, 1917.

Mr. M. E. Douglas,
Circulation Manager, Philadelphia, Pa.

Dear Mr. Douglas:

Although I knew that your approval was necessary before making any arrangements to wholesale any non-Curtis periodicals which were sold by boys, I didn't know as you objected to my handling a magazine which is sold at newsstand only. Before taking the agency for Every Week I did ask your approval for it as a boy proposition.

I have promised to handle the Pictorial Review commencing with May issue, also Literary Digest commencing March 24, because I thought that they were not competing magazines and could do so without interfering with your publications. However, if you think that by so doing it will affect the sale or promotion of your publication—kindly advise me at your convenience for I want to live up to my contract.

Awaiting a favorable reply, I am,

Yours truly,

(Signed) A. M. PIERSON."

COMMISSION'S EXHIBIT No. 19.

"REPLY SHEET.

*Please write your reply below for a prompt adjustment of the matter referred to. Do not return the original letter. Retain the original for your future reference.*

Mar. 10, 1917.

Mr. C. L. Grosjean,
Philadelphia, Pa.

Dear Mr. Grosjean:

In reply to your letter of the 8th will say that I was expecting to wholesale Pictorial Review, but am not positive until I hear from Mr. M. E. Douglas, therefore they haven't any wholesale agent yet.

If you think my taking the agency would not interfere with the sale or promotion of your publication I would be glad to take it, but if your idea is to the contrary advise me.

Thanking you for whatever you may do in my behalf in this matter, I am

Yours truly,

(Signed) A. M. PIERSON."

---

COMMISSION'S EXHIBIT No. 20.

"(Blank of Postal Telegraph Company—[Yellow-Night Lettergram].)

77 BNY Sm 35 NL 1005 PM
Ch Philada Pa March 17 1917
A M Pierson
25 Commercial Avenue Binghamton NY
You can probably handle literary digest without interference with our Mutual interests letter follows but we cannot approve of your wholesaling may or later issues of pictorial review for reasons stated in letters to follow M E Douglas"

COMMISSION'S EXHIBIT No. 21.

"March 14, 1917.

Mr. A. M. Pierson
25 Commercial Avenue,
Binghamton, New York

Dear Mr. Pierson:

In reply to your letter dated March 8:

Our mutual interests, yours and ours in common, will be best served by your not making any arrangements to wholesale The Pictorial Review.

One fundamental fact stands out prominently: There is a limit to the number of periodicals seeking circulation among readers of the same class, which a District Agent can handle without taking on the limitations of a branch of the news company. We have District Agents because we need representatives free from such limitations. You are our valued representative because you have heretofore been free from such limitations.

That you may get our exact shade of meaning, let me quote from a letter recently mailed to a Curtis District Agent in another state, of whose loyalty to us we were not wholly confident as we are of your loyalty.

In this letter to the other District Agent we said:

> 'If you undertake it (wholesaling the other periodical mentioned), directly or indirectly, we should wish to cancel your arrangements with us.'

There is nothing temporary or uncertain about our policy of continued direct supplies to District Agents including you, in accordance with our contracts; and our mutual interests, yours and ours alike, will be best served by the maintenance of methods and policies above mentioned.

At your convenience in the course of a few days, we should be very glad to have you tell us what is your preference with respect to the continuance of the very pleasant relations which have so long existed between us.

We are much interested in any increased local effort for larger sales of THE COUNTRY GENTLEMAN and are willing and anxious to pay handsome, liberal bonuses for increases in net sales of THE COUNTRY GENTLEMAN during months to follow.

Very truly yours,

THE CURTIS PUBLISHING COMPANY,
*District Manager.*

Dictated by
MED SM"

---

COMMISSION'S EXHIBIT No. 23.

(Letterhead of A. M. Pierson)

"Binghamton, N. Y., Mar. 17, 1917.

Mr. C. L. Grosjean,
Philadelphia, Pa.

Dear Sir:

Perhaps you could either print 10,000 reprints for me or find some at a place where they had too many and send same to me.

I certainly feel that a thorough circulation of the reprints would bring results especially with the $100.00 reward of course I had them ordered but perhaps I was too late.

Replying to your letter of the 14th will say that my desire is to continue our very pleasant relations

indefinitely. The work which I have done since you have appointed me as your representative ought to prove it.

I am informing the Pictorial Review to appoint a distributor for this territory.

With best wishes for a large increase in the sale of the Country Gentleman, I remain

Yours truly,

(Signed) A. M. PIERSON."

---

COMMISSION'S EXHIBIT No. 24.

"March 22, 1917.

Mr. A. M. Pierson,
25 Commercial Avenue,
Binghamton, N. Y.

Dear Mr. Pierson:

For your kind letter dated March 17 we thank you. Your decision not to wholesale The Pictorial Review to retailers in your city is in line with the decision reached by District Agents everywhere.

It is gratifying to us to see the spirit of loyalty and one-mindedness to us in this matter manifested by Curtis District Agents everywhere.

Again thanking you,

Very truly yours,

THE CURTIS PUBLISHING COMPANY,

Dictated by
MED SM"

*District Manager.*

By Mr. Spiess:

Q. Did you ever handle the "Every Week"?

A. Yes, sir.

Q. How long did you handle that? Are you handling it now?

A. No, sir.

Q. How long did you handle it?

A. I do not quite recall. I did not handle it very long.

Q. Why not?

A. Because at the time when I took that publication, it was understood between them and myself that I was to handle it for dealers only, and finally they got an idea that I was to distribute through boys, and as soon as they told me they wanted that, our relations were dissolved.

Q. What equipment have you for handling these periodicals wholesale?

A. A Ford and a wagon.

Q. Have you always had this rolling stock since you have been in business?

A. Not when I first entered the business, I did not have.

Q. How long have you had this Ford and wagon?

A. I have had the wagon practically all the time, but the Ford I only had a year in all.

Q. How did the man deliver the "Pictorial Review" that was turned over to him on the May issue?

A. He hired it delivered.

Q. Hired what?

A. A truck.

Q. He did not have any equipment?

A. No, sir.

Mr. Milburn: I object—"He did not have any equipment. He hired a truck."

Q. Do you know whether or not he had any equipment of his own?

MR. MILBURN: I object to that as immaterial. What difference does it make, if he hired one and distributed it?

EXAMINER MOORE: Objection sustained.

Q. How many "Saturday Evening Posts" did you handle per week?

A. 1900 now.

Q. Is there any other wholesaler of newspapers and periodicals in Binghamton?

A. Yes, sir.

Q. Who are they?

A. There is a man handling the "Pictorial Review" and there is another man handling the "New York Sun" and the "New York World."

Q. Has the man handling the "Pictorial Review" any equipment?

MR. MILBURN: That is the man he just referred to.

MR. SPIESS: No, that was a question ago. I asked him when he delivered this May issue, how he delivered it. I did not ask about what he has got now.

MR. MILBURN: If you will consult the record you will find that he said that the man who was handling the "Pictorial Review" was hiring a truck to deliver it.

MR. SPIESS: I asked him how the May issue was delivered that he was to deliver, and he said "By this man with a truck; he hired the truck."

Q. I ask you now, does the man have any equipment who is delivering the "Pictorial Review" in Binghamton?

MR. MILBURN: I object to that. I do not see how that applies to this case. The "Pictorial Re-

view" is not on trial. I object on the further ground that it is not the fault of Curtis & Company if he has not got equipment.

EXAMINER MOORE: He may answer.

MR. MILBURN: Exception.

MR. DALY: The question of facilities is certainly an issue here. We have been talking about facilities all day; what facilities these other men have for distributing papers is certainly an issue.

Q. Answer the question.

A. The last time I knew, he was hiring a truck to deliver his magazines. That is the last I knew; I have not seen him for some time.

Q. What do you mean by "some time"?

A. He may have some facilities by this time.

Q. So far as you know, he has not?

A. Yes, sir.

Q. How many "Saturday Evening Posts" do you handle per week?

A. 1900 copies.

Q. How many "Country Gentlemen"?

A. 400 copies.

Q. Per week?

A. Yes, sir.

Q. How many "Ladies' Home Journals" per month?

A. 2000 Journals, this month.

Q. Is that your average per month?

A. It is not the average.

Q. What is the average per month?

A. I drew 3000 for the last three months.

Q. When you say you "drew 3000," do you sell those?

A. There are some returns, probably.

3633

CROSS-EXAMINATION.

By MR. MILBURN:

Q. The man who has the "Pictorial" agency now is making the deliveries, is he not?

A. Yes, sir.

Q. When you broke with the "Every Week" because they wanted to use your boys, to what boys did you refer?

A. I referred to the Curtis boys.

Q. The boys that you used for the Curtis publications alone?

A. Yes, sir.

Q. Have you any duties to the Curtis Publishing Company with reference to those boys?

A. Yes, sir.

Q. You make reports?

A. Yes, sir.

Q. And help the Curtis Company in getting them; is that right?

A. Yes, sir.

Q. You had no interest in the "Pictorial" agency after you turned it over to this friend of yours, had you?

A. No, sir.

Q. What did you do? Did you recommend him to Mr. Mackinnon?

A. Yes, sir.

Q. You had neither wholesaled the "Pictorial" nor "Every Week" before you got the Curtis contract, had you?

A. No.

Q. You have received certain bonuses and extra payments under your Curtis contract for work done for them, have you not?

A. Yes, sir.

MAX OKIN was called as a witness on behalf of the Commission, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. SPIESS:

Q. Mr. Okin, give your full name and address.

A. Max Okin, Hackensack, New Jersey; Maine and Mercer Streets is my place of business.

Q. What business are you in?

A. Wholesale newspapers and magazines and stationery and cigars.

Q. How long have you been in the wholesale business?

A. For the last three years.

Q. What have you handled during that time in the wholesale business?

A. The Munsey publications.

Q. Any other publications?

A. No.

Q. Have you handled the Curtis publications?

A. I became an agent for Curtis, I think, May 31, 1915.

Q. But you were in the wholesale business before you entered into a contract with Curtis?

A. Yes; with newspapers only.

Q. How long had you been handling the Munsey publications?

A. I do not know exactly.

Q. Was it before or after?

A. A few years before.

Q. Before what?

A. Before 1915.

Q. Then you were handling the Munsey publications before you handled the Curtis publications?

A. Yes.

Q. Have you a contract with the Curtis Company?

A. Yes, sir.

Q. Did you ever handle the "Pictorial Review"?

A. I did handle it for a short time.

Q. For how long?

A. For a few publications.

Q. When?

A. Last summer.

Q. Can you give the months?

A. I cannot recall what months, but the first, when they started in, when they got out from the American News Company.

Q. May and June?

A. It must be May and June.

Q. Are you handling the "Pictorial Review" now?

A. I turned it over to my son at that time.

Q. Why did you stop handling it?

A. According to the contract with the Curtis Publishing Company, I wanted to live up to the contract.

Q. Who called your attention to the contract?

A. Dealers—I heard from other dealers.

Q. Did you ever hear from the Curtis Company that it was objectionable for you to handle "Pictorial Review"?

A. Yes; they sent me a letter to call my attention to live up to my contract; that is all.

MR. SPIESS: Have you got that letter, Mr. Milburn?

MR. MILBURN: We have not, but we will admit it was one of the circular letters.

Q. Did you ever handle "Every Week"?

A. I handled it for a short time, and then "Every Week" took it away.

Q. Did they take it away?

A. I think so.

Q. Do you not know?

A. I see the letter that I am no more their agent and they turned it over to somebody else.

Q. Have you got a copy of that letter?

A. No.

Q. When you received this letter from the Curtis Company, what did you do about the "Pictorial Review"?

A. I turned it over to my son.

Q. What business is your son engaged in?

A. My son is a student in Columbia, and in his spare time he attends to these and some other little things. He works during vacation for the "Pictorial Review," too, as a canvasser.

Q. Then it was run practically as an independent agency, was it not?

A. Yes, independently. Of course, I helped along.

By Mr. Walsh:

Q. Does your son live with you?

A. Yes, sir.

Q. Has he been living with you while he has been distributing the "Pictorial Review"?

A. He has been with me all the time.

Q. And he handles the "Pictorial Review" from your place of business?

A. He helps along in the store.

Q. And the agency of the "Pictorial Review" is run in the name of your son, but it is conducted right with your business?

A. Through my business.

Q. How old is your son?

A. Eighteen.

Cross-Examination.

By Mr. Milburn:

Q. Mr. Okin, you said that your first contract with the Curtis Publishing Company was in 1915. Were you not wrong about that? Was it not 1910?

A. When "The Ladies' Home Journal" came out twice a month, for the time being, I was an agent for that short time.

Q. And that was away back in 1910. You were an agent for the Curtis people then, were you not?

A. For a short time, yes.

Q. You have been an agent for them during the course of your life at several times, have you not?

A. That was the only time, for the time being, when it came out twice a month. I was an agent at that time.

Q. And at that time you were not agent for any other magazine, were you?

A. I still was agent for "Munsey."

Q. You were agent for "Munsey"?

A. I handled "Munsey" direct.

Q. In 1910?

A. Yes.

Q. You are sure about that?

A. Yes.

Q. Do you know Mr. F. W. Baker?

A. Yes, sir.

Q. Do you know he is connected with the Curtis Company?

A. Yes, sir.

Q. Did you have a talk with him on July 27, 1917?

A. Yes, sir.

Q. And you had a talk with him about how long you had been in business?

A. Yes, sir.

Q. How long you have handled the Curtis publications, and everything?

A. Yes, sir.

Q. Now, is it true that you told him at that time that you first handled the Curtis publication in 1910?

A. I could not recollect the dates, but someone told

me that that was the time they had the two publications in one.

Q. You remembered handling it at that time?

A. I admit that.

Q. Do you remember telling him then that you at that time had never handled any other magazine?

A. Yes; I handled "Munsey's."

Q. You do not think you said that, in other words?

A. I know I did say that I handled the "Munsey."

Q. Did you say you handled "Every Week"?

A. For a short time.

Q. When was that?

A. As soon as they came out, I think.

Q. What year was that? Was that before you handled the Curtis, or afterwards?

A. At the same time I mentioned.

Q. What?

A. At the same time I mentioned.

Q. You did not start to handle "Every Week" and the Curtis and "The Ladies' Home Journal" and "The Saturday Evening Post" all at the same time, did you?

A. No.

Q. Which did you handle first?

A. Curtis.

Q. And you handled the Curtis publications long before you ever handled the "Pictorial," did you not?

A. Yes.

Q. And you now, and your boy, handle "Pictorial" and all the rest of them together from the store; do you not?

A. Yes, from the store.

RE-DIRECT EXAMINATION.

By MR. WALSH:

Q. Let me ask you to refresh your memory and see if you cannot recall as to whether or not you stopped

handling "Every Week" because the Curtis Publishing Company objected to you handling "Every Week."

MR. MILBURN: I object to that as not proper re-direct examination. This witness has definitely stated on his direct examination his reason, and he said it on cross-examination, and I do not think it is proper re-direct examination, or rebuttal examination.

MR. WALSH: It is a matter of discretion.

MR. MILBURN: Here is a definite statement. It is entirely contrary to his original statement, and I object to it as leading and improper.

MR. WALSH: I am asking him to refresh his recollection. It is a matter within the sound discretion of the Examiner to ascertain what the facts are. This witness is not apparently a very alert witness mentally. What I want to do is to ascertain what the facts are.

MR. MILBURN: I object to the form of that question.

EXAMINER MOORE: He may answer it; objection overruled.

Q. You understand that question?

A. Yes, sir.

Q. What is it?

A. That I was rejected by the Curtis Publishing Company for handling the "Every Week."

Q. You remember now?

MR. MILBURN: No; he does not say he was. He is reciting the question.

THE WITNESS: That was your question.

Q. That is it; yes, sir.

A. That is what I understood. That is why I gave up.

Q. Why you gave up "Every Week"?

A. That is why they took it away from me.

Q. Why who took it away from you?

A. The "Every Week."

Q. The "Every Week" people wrote you to find out and took the agency away?

A. Yes.

MR. WALSH: I am trying to find out, Mr. Milburn, what the facts are.

THE WITNESS: They took it away from me.

MR. MILBURN: I now renew my objection. He makes a definite statement again, and they have puzzled him by making statements that he does not intend to make, and it is improper.

EXAMINER MOORE: I do not think he responded to the question, did he?

MR. WALSH: I was attempting to elicit some answer.

EXAMINER MOORE: Let the reporter read the question.

(The question was repeated by the stenographer.)

MR. MILBURN: I object to that line of questioning. I have a right to object. He said "they stopped on me." He made that statement three or four times. I object to this line of inquiry.

EXAMINER MOORE: Objection overruled.

MR. MILBURN: Exception.

Q. Who objected to handling it, the Curtis Publishing Company or the Every Week Company?

A. That is what I say. I understood it was the objection from the Curtis Publishing Company, but the "Every Week" stopped it on me. They came around and I told them I am not supposed to handle it, the boy is, and he wanted me to handle it through the boys, sell to boys, and he told me it was against the contract.

EXAMINER MOORE: What contract?

THE WITNESS: The Curtis Publishing Company contract.

MR. WALSH: That is all.

By MR. MILBURN:

Q. Those were the Curtis boys you refer to, were they not?

A. Yes, sir.

MR. WALSH: The question is objected to as being incompetent, irrelevant and immaterial, because there is no foundation laid for any such question.

EXAMINER MOORE: Objection sustained.

Q. What boys did you refer to?

A. Curtis boys.

MR. WALSH: I ask that the answer be stricken out because there is no foundation laid for it. It is unintelligible.

MR. MILBURN: He referred to boys, and I asked him what boys, and it is objected to. We did not bring out about the boys; he brought that out.

MR. WALSH: No; I did not say anything about boys at all.

MR. MILBURN: He gave the reason in reply to your question, that he was not allowed to distribute through boys, and he wanted to distribute through boys.

MR. WALSH: That is not his answer. His answer is because they wanted the Curtis boys.

MR. MILBURN: You are referring to a prior answer where he said "Every Week" came to him and told him they wanted to use the boys, and they could not use the boys.

MR. WALSH: If that is the testimony, I have no objection to that.

MR. MILBURN: The objection is withdrawn then, is it?

By Mr. Walsh:

Q. What boys did you refer to?

A. The Curtis boys.

Q. What do you mean by that?

A. The boys I supplied to Curtis.

(Whereupon, at 5.40 o'clock P. M. an adjournment was taken to tomorrow, Saturday, December 8, 1917; at 10 o'clock A. M.)

---

## THIRD DAY.

New York City, December 8, 1917, 10 A. M.

Met pursuant to adjournment.

Present: Parties as before.

---

B. A. Mackinnon, was recalled as a witness, and having been previously duly sworn, testified further as follows:

Cross-Examination (Continued).

By Mr. Welch:

Q. At page 190 of the record, you were asked by Mr. Daly whether you could make a comparison of the expenses of delivery through the American News Company and through the wholesaler, and you answered that the business done direct through the wholesaler was cheaper, and you gave this reason—your answer is as follows: "You have no charge for returned or unsold copies, and you get a higher price from the wholesaler than from the retailer." What does that mean?

A. That is not correct there.

Q. That is what I supposed.

A. You get a higher price from the wholesaler than the retailer?

Q. That is the way it reads.

A. It should be than from the American News Company. I might have said "News Company."

Q. In that connection, what did you get from the American News Company?

A. Eight and three-quarters cents.

Q. And you had no transportation charges to pay in distributing through the News Company centers?

A. No, sir.

Q. And you had nothing like as heavy overhead charges as you have in the independent distribution—is not that a fact?

A. That is a fact.

Q. Now, what price did you get from the wholesaler?

A. Nine and three-quarters cents.

Q. Out of that nine and three-quarters cents, the publisher has to pay the transportation charges; does he not, to the wholesaler?

A. Yes, sir.

Q. How much does that amount to?

A. Three-quarters of a cent a pound, on the average.

Q. And one of your magazines weighs about a pound?

A. Yes, sir.

Q. So that the price you get from the American News Company and the price you get from the wholesaler is substantially the same, is it not?

A. No, sir.

Q. Do you not get——

A. It is a quarter of a cent more on the wholesaler's business and considerably more on the retailer's business.

Q. I am not talking about the retailer.

A. But the retailer is the very important part of this proposition.

MR. WELCH: I move to strike that answer out.

EXAMINER MOORE: Strike it out.

By MR. WELCH:

Q. Now, I want to ask you this question: Is it not a fact that the retailer gets the magazines at the same price from the American News Company as he does from the wholesaler, except for a small weekly delivery charge which covers all the magazines he handles?

A. No, sir.

Q. What is the difference?

A. Well, the dealer that is outside of the branch News Company city has to pay an express charge.

Q. Except a small weekly delivery charge——

A. It is not a small delivery charge.

Q. What is it?

A. It may be five or eight or ten dollars a week, and in the cities where the News Company's branches are located, it is fifty cents a week.

Q. It may be five, eight or ten dollars a week in the cities where there are no branches?

A. Yes, sir; if the dealer has a large business. He has to pay in that case, all express charges.

Q. Did you not say, on page 190, that "the branch of the American News Company located in that city makes a charge running all the way from 25 cents a week up to, in some cases, $2 or $3 for a delivery of magazines to that dealer's store"?

A. That is only sixty cities in the United States and Canada. There are a great many more where they supply the dealers by express or mail.

Q. Where are those deliveries made from?

A. From the nearest branch city. In those cases, the dealer has to pay the full express or mail charges.

Q. Now, in dealing with the so-called wholesaler, I understand you to say that the publisher always pays the transportation charges to the wholesaler?

A. Yes, sir.

Q. And you do that in your business?

A. Yes, sir.

Q. The wholesaler, in respect to unsold copies, does not return the copies themselves, does he not just return the covers?

A. Generally.

Q. Is not that the usual practice in your business?

A. No; we draw our copies in from nearby points.

Q. But generally they merely send you back the covers?

A. They generally send back the covers; yes sir.

Q. And they send back a large number of covers of magazines instead of the magazines themselves, and you accept those in place of the unsold magazines?

A. Yes.

Q. Now, in making a comparison on the cost or the expense of the different methods of distribution, you said you took into account what we have called the overhead charges. Is it not a fact that, in dealing through independent wholesalers, that you have quite a large item in losses on bad accounts?

A. No, sir; fortunately to this point.

Q. Is not that a very serious risk in that business, when it is extended?

A. We have not found it so.

Q. How long have you been doing it?

A. Since last April.

Q. You have had no losses at all on bad accounts?

A. I would not say that, because there may be some that are not going to be paid; however, we have not had any yet.

Q. You never had any losses on accounts with the American News Company, did you?

A. No, sir.

Q. When you sell to the so-called wholesaler, do you sell your copies with the full returnable privilege for unsold copies?

A. Yes, sir.

Q. Did you send out that circular letter to your wholesalers? (Handing paper to witness.)

A. To wholesalers?

Q. You sent that letter out, did you not?

A. Yes, sir, but to retailers.

Q. Only to retailers?

A. Yes, sir; in cities where we had no wholesalers.

Q. You deal directly with retailers?

A. Oh, yes. I should be very glad to explain how I used that letter, if you wish, and the Examiner will permit.

MR. DALY: It has not been introduced.

By MR. WELCH:

Q. What do these retailers who deal directly with you, pay you for their copies of "Pictorial Review"?

A. Eleven cents a copy.

Q. Then, you get from various retailers throughout the country that you deal directly with, eleven cents a copy?

A. Yes, sir.

Q. You circulate your magazine in quite large numbers that way?

A. Quite a good many, yes, sir.

Q. Now, when you testified in your direct examination, you were asked how you distributed the "Pictorial Review," and you said through subscriptions, by mail, and through news dealers. Those were the only two avenues of distribution that you gave.

A. To wholesale and retail news dealers.

Q. You wish to qualify that answer by saying that you meant wholesale and retail news dealers both?

A. Yes, sir.

Q. Is that it?

A. Yes, sir.

Q. And those retail news dealers you sold to at eleven cents a copy?

A. Yes, sir.

Q. You advertised for that business very extensively?

A. Not very extensively, but we do advertise for it, yes, sir.

Q. Do you not also distribute through certain newspaper agencies?

A. Well, I should like to explain just exactly what that——

Q. You did explain that. You explained that you had arrangements with newspapers in three cities under which they distributed your magazines and you were obliged, as part of that arrangement, to advertise in their papers; is not that a fact?

A. We advertised in their paper, but the newspaper itself—that is, the corporation——

Q. I do not care about the entity that distributes your papers. You do get a service of distribution through the newspapers in these cities—that is another method, it is not?

A. We consider them as wholesalers.

Q. You consider them as wholesalers?

A. Yes; the man they turn over to us we consider a wholesaler.

Q. Your objection to that method is you have to advertise in the newspapers?

A. And its uncertainty.

Q. You advertise a great deal in newspapers in other ways?

A. Yes, sir; we advertise.

Q. Is it a very great hardship to advertise your papers in the newspapers?

A. Yes; and we use the magazines also.

Q. You use "The Ladies' Home Journal," do you not?

A. Yes, sir.

Q. Are there any newspapers or newspaper corporations or organizations that do this distributing work for your company with whom you do not advertise?

A. No, sir.

Q. Have there been newspapers who did that distributing work for you before the present time, in the past, with whom you did not have to advertise?

A. No, sir.

Q. You always had to advertise in the newspapers to get that service?

A. Yes, sir.

Q. You pay the ordinary advertising rates, I presume?

A. Yes, sir.

Q. Did you ever advertise before in any of those newspapers with whom you have had this arrangement?

A. Some of them, yes, sir.

Q. With some of them?

A. Yes, sir.

Q. So that the advertising was not a new thing when you went into this arrangement?

A. Advertising is not a new thing with us; no, sir.

Q. I mean advertising in a particular paper.

A. In some, no.

Q. You had advertised previously in those newspapers?

A. Yes, sir.

Q. What are the newspapers through which you are distributing now and in which you advertise that

you did not advertise in before—do you see what I mean?

A. Yes. The "Detroit Journal" and the "Cincinnati Commercial Tribune." I think those are all. I could not tell without going over our records carefully.

Q. Where have you made that arrangement—in what cities—for the distribution of your magazines through the newspaper agencies?

A. In New York and Albany.

Q. You mean New York City?

A. Yes, sir, and Albany and Detroit and Cincinnati, Providence and Atlanta.

Q. Are those the only places?

A. I think so.

Q. Then, when you testified yesterday that you had this arrangement and were asked where, and you said Albany, New York City and Detroit, that was an error?

A. Was that the question yesterday?

Q. Yes. Where have you got that arrangement in effect—you replied to that, New York City, Albany and Detroit.

A. The answer was not complete.

Q. You wish to complete that answer by adding Cincinnati, Detroit, Atlanta and Providence—is that correct?

MR. DALY: Do you not distribute in New Orleans that way?

A. Not now.

MR. DALY: Did you?

THE WITNESS: We did, but not now.

By MR. WELCH:

Q. How about Troy?

A. Not at Troy, no.

Q. You still distribute through the American News Company also in a limited way, do you not?

A. Yes; and I would like to explain there that it is on a strictly non-returnable basis.

Q. Make any explanation you wish.

A. We distribute through the American News Company the same as any other magazine—we distribute through them in a very limited way, on a strictly non-returnable basis.

Q. Do you mean distribution or sale?

A. It is a sale to the American News Company.

Q. The American News Company distributes copies, does it not?

A. They buy a certain number of copies outright.

Q. Is not that the way they did before?

A. No; they previously bought them on a returnable basis.

Q. They do take from you, however, copies for distribution throughout the country under certain conditions?

A. They buy them; I do not know what they do with them.

Q. They would not buy them and throw them away—they would get into the hands of the readers ultimately?

A. Yes, sir; they are our jobbers.

Q. You testified you had two means of distribution—through subscription and wholesalers. How many more do you have? You do distribute through the American News Company, do you not?

A. We sell them copies.

Q. They get into the hands of the public; you do not suppose they buy them and tear them up?

A. I do not suppose they do, but they might tear some of them up.

Q. When did the first so-called independent

wholesaler of any kind send his first order to you in this independent distribution?

A. Well, I do not know the exact date, but the very early part—about February 10th.

Q. February 10th?

A. Yes, sir.

Q. You mean to say prior to that time you had never sold any of your copies through an independent wholesaler or dealer?

A. Yes, sir; we had.

Q. You had?

A. Yes, sir.

Q. How long before that?

A. Why, from the previous fall.

Q. From the fall of 1916?

A. Yes, sir.

Q. In other words, you started in the fall of 1916 selling copies of your magazines, in some instances, through wholesalers?

A. I would like to explain how that was done.

MR. DALY: You have a right to explain your answers.

MR. WELCH: I am not stopping you.

THE WITNESS: I do not want to get the record confused. If I said yes, it would seem we had a general campaign; as a matter of fact, it was only a few cities, and the copies we sold to the wholesalers in those cities were not for sale to the dealers who are now supplied by the American News agencies. It was only for our own pattern agencies in those cities, and such dealers as were not supplied by the American News Company.

Q. But you were supplying some of your magazines through independent wholesalers who distributed to persons not supplied by the American News Company?

A. To a very limited extent.

Q. That was commenced, you think, in the fall of 1916?

A. In the fall of 1916; yes, sir.

Q. You have mentioned certain cities in which you were compelled to open an office or send a man to obtain what you called an independent distributor, and you have given the expenses in the various cities covered by that from April to October, your income and your net sales. You have given those figures from Pittsburgh, Syracuse, Atlanta, Albany, Bridgeport, New Orleans and St. Louis. Now, I want to know what your expenses for the month of November are in each of those cities, and what your total income has been in the month of November in each one of those cities?

A. I have not got that information here.

Q. I did not suppose you had. But I ask you to get that and supply me at a future hearing.

A. Those cities you want——

Q. In the cities you stated the expenses you incurred in starting your distribution, and you have given them from April to October. I want the expenses in those cities for the month of November, 1917; also the total income in those cities for the month of November, 1917, and I want your sales in those cities for the month of November.

A. Net sales?

Q. Net sales as you have given for the period April to October. I want also an apportionment of those expenses that you have already incurred through April to October—apportion the expenses throughout April, May, June, July, August and September. I want to see where that expense came in, in what months; how it is distributed over those months, and what it is at the present time, and do the same with the income. Now, I ask you to get that for me, and you will produce that at some future hearing?

A. Yes, sir.

Q. Mr. Mackinnon, in regard to those cities I have mentioned, that I have been talking about, where you have to put a man in there at an expense, was that man continued there in any instance, or was he not put in there to obtain some one to handle your magazines, and then your expenses in that connection ceased?

A. Not always. In some cases he is still there.

Q. Can you tell in which cases?

A. In Pittsburgh the man we employed is still there. Pittsburgh is the only one.

Q. Pittsburgh is the only city in which you retained the man who created this initial expense for you?

A. Permanently; yes, sir.

Q. Is that man under a salary, or is he your agent?

A. A salary.

Q. He is under a salary?

A. Yes, sir.

Q. Now, Mr. Mackinnon, you have spoken of the losses in sales, due to cancellation of orders, as you call them, and you have specified the Erie News Company and Ramroth, Callahan, Boland, Silverstein and Baron & Molesky and Katz, as persons who cancelled their orders, and that you, as a result, only sold a certain number of copies—much less than the number of copies you had ordered; is that a fact?

A. Yes, sir.

Q. Those figures you gave were for the May issue?

A. Yes, sir.

Q. I should like to have, when you get that other information, if you do not have it there with you, the number of copies sold in that same territory for June, July, August, September, October and November.

A. Yes, sir.

Q. You do not have that information there?

A. I have some, but not all. I have Albany and some other points.

Q. As long as you are going to get the other information, you had better give it to me complete.

Mr. Mackinnon, you testified that you had a talk with Mr. Peacock, of the Curtis Publishing Company, some time in October?

A. Yes, sir.

Q. You told him your idea of inaugurating an independent system of distribution?

A. Yes, sir.

Q. In October, shortly after that time—that is, October, 1916—you received a letter from Mr. Peacock which has been put in evidence?

A. Yes, sir.

Q. Do you recognize that document (exhibiting a document to the witness)?

A. Yes, sir.

Q. Look at page 14.

MR. DALY: What is this, Mr. Welch.

MR. WELCH: I will ask him about it.

By MR. WELCH:

Q. I ask you to look at page 14 of an affidavit made by you in the case of the Pictorial Review Company against the Curtis Publishing Company, upon an application for a preliminary injunction in the United States District Court, for the Southern District of New York, and ask you whether you did not state in that affidavit as follows, referring to the letter from Mr. Peacock to you, dated October 3, 1916, which is now marked "Commission's Exhibit R":

> "Mr. Peacock's letter, it will be noticed, stated, in substance, that there would be no objection on the part of defendant to the distribution of complainant's magazine through the wholesalers, unless the complainant attempted 'to go

after the boys who are selling the Saturday Evening Post and the other Curtis publications.' "

You made that statement in your sworn affidavit, did you not?

A. Yes, sir.

Q. And that was the construction you put on Mr. Peacock's letter?

A. Yes, sir.

Q. Now, after that you did go after the boys, did you not?

A. Not the "Saturday Evening Post" boys, as such.

Q. What boys did you think Mr. Peacock referred to in his letter?

A. The boys selling "The Saturday Evening Post."

Q. Do you not know that the boys who sell "The Saturday Evening Post" also sell "The Ladies' Home Journal"?

A. Yes, sir.

Q. The same boys?

A. Yes, sir.

Q. You knew Mr. Peacock referred to those boys in his letter?

A. Yes, sir.

Q. And after that you did go after those boys?

A. No, sir; I did not go after those boys.

Q. What boys did you go after?

A. Any boys delivering newspapers to homes in the various cities.

Q. In sending out letters to various agents, did you specify newsboys delivering papers?

A. All the arrangements that were made——

MR. WELCH: Just a moment. I move to strike that out.

THE WITNESS: I would like to explain it.

By MR. WELCH:

Q. Did you or not specify, in writing to agents throughout the country, in writing about the boys, that you wanted boys handling newspapers?

A. Yes, sir.

MR. DALY: When was that?

MR. WELCH: Any time after Mr. Peacock's letter of October third.

THE WITNESS: I think I did.

By MR. WELCH:

Q. I will show you these letters and ask you if you did not send these letters out to every agent as to whom you had the address (handing letters to witness)?

A. No.

Q. You sent these letters out that I showed you?

A. Yes, sir.

MR. WELCH: I offer these in evidence.

By MR. WELCH:

Q. You sent them out to the persons named in the letters?

A. I assume so.

MR. DALY: Let me look at the letters, first.

By MR. WELCH:

Q. Did you know whether or not those agents were and are the agents of the Curtis Publishing Company?

A. I do not know—no, sir.

Q. You do not know?

A. I know some of them are, but others I am not sure.

Q. You know some of them are?

A. Yes, sir; distributors for Curtis.

MR. DALY: We have no objection.

(The letters referred to were thereupon received in evidence and marked by the stenographer

"Respondent's Exhibits 4, 5, 6, 7 and 8," respectively, and are as follows):

RESPONDENT'S EXHIBIT No. 4.

(Letterhead of Pictorial Review Company)

"Jan. 20, 1917.

Mr. H. P. Koppleman,
Hartford, Conn.
Dear Sir:

We are now ready to supply you directly with such copies of Pictorial Review as you can sell *through boys* and to our own local Pictorial Review pattern agencies. We cannot permit you to sell these copies to dealers who are now supplied by The American News Company or its branches and any attempt on your part to do so will mean that this arrangement must be discontinued. *Please keep this fact in mind.*

Our pattern agencies in your city are:
Sage Allen & Co.....Hartford, Conn.
Miss Bella Levinson.....301½ Park Ave.

We supply these agencies with copies at eleven cents per copy plus transportation costs which means about one cent per copy extra. You can supply them at eleven cents and this saving of one cent per copy should get you the order.

Our prices to you on Pictorial Review will be 9¾ cents per copy, delivered, strictly non-returnable but in place of a return privilege we will allow you a discount of 10% off the face of your bill for cash with order, which means that Pictorial Review will cost you about 8¾ cents per copy if you clean up each month as you can easily do on the kind of magazine we are producing right now.

We publish on the 10th of each month and your order should be in our hands not later than

the 25th of the preceding month to insure early delivery.

The March number is a corker. It has a 'kid' cover and you know what that means. And right now this Kathleen Norris serial is booming things. So you have a live one to keep step with. Your boys should be able to do a corking business and these pattern agencies should surely sell more than for February.

Let's have your order by return mail.

I trust this is just a small beginning of a long and pleasant close business relationship.

Yours very truly,
(Signed) B. A. MACKINNON,
*Circulation Director.*"

---

RESPONDENT'S EXHIBIT No. 5.

(On letterhead of Pictorial Review Company.)

"January 22, 1917.

Mr. J. L. Tenenbaum,
Atlanta, Ga.
Dear Sir:

We are now ready to supply you directly with such copies of Pictorial Review as you can sell *through boys* and to our own local Pictorial Review pattern agencies. We cannot permit you to sell these copies to dealers who are now supplied by The American News Company or its branches and any attempt on your part to do so will mean that this arrangement must be discontinued. *Please keep this fact in mind.*

Our pattern agencies in your city are The Keely Co. & 62-64 Whitehall St., and four others.

We supply these stores with copies at eleven cents per copy plus transportation costs which means about one cent per copy extra. You can

supply them at eleven cents and this saving of one cent per copy should get you the order.

Our price to you on Pictorial Review will be 9¾ cents per copy, delivered, strictly non-returnable but in place of a return privilege we will allow you a discount of 10 per cent. off the face of your bill for cash with order which means that Pictorial Review will cost you about 8¾ cents per copy if you clean up each month as you can easily do on the kind of magazine we are producing right now.

We publish on the 10th of each month and your order should be in our hands not later than the 25th of the preceding month to insure early delivery.

The March number is a corker. It has a 'kid' cover and you know what that means. And right now this Kathleen Norris serial is booming things. So you have a live one to keep step with. Your boys should do a corking business and these pattern agencies, should surely sell more than for February.

Let's have your order by return mail.

I trust this is just a small beginning of a long and pleasant close business relationship.

Yours very truly,

(Signed) B. A. MACKINNON,

*Circulation Director.*"

---

RESPONDENT'S EXHIBIT No. 6.

(On letterhead of Pictorial Review Company.)

"January 22, 1917.

Mr. J. Newman,
Stamford, Conn.

Dear Sir:

We are now ready to supply you directly with such copies of Pictorial Review as you can sell *through boys* and to our own local Pictorial Re-

view pattern agency. We cannot permit you to sell these copies to dealers who are now supplied by The American News Company or its branches and any attempt on your part to do so will mean that this arrangement must be discontinued. *Please keep this fact in mind.*

Our pattern agency in your city is The Burdette McGillevray Co., Atlantic St.

We supply this store with copies at eleven cents per copy plus transportation costs which means about one cent per copy extra. You can supply them at eleven cents and this saving of one cent per copy should get you the order.

Our price to you on Pictorial Review will be 9¾ cents per copy, delivered, strictly non-returnable but in place of a return privilege we will allow you a discount of 10% off the face of your bill for cash with order which means that Pictorial Review will cost you about 8¾ cents per copy if you clean up each month as you can easily do on the kind of magazine we are producing right now.

We publish on the 10th of each month and your order should be in our hands not later than the 25th of the preceding month to insure early delivery.

The March number is a corker. It has a 'kid' cover and you know what that means. And right now this Kathleen Norris serial is booming things. So you have a live one to keep step with. Your boys should do a corking business and this pattern Agency should surely sell more than for February.

Let's have your order by return mail.

I trust this is just a small beginning of a long and pleasant close business relationship.

Yours very truly,

(Signed) B. A. MACKINNON,

*Circulation Director.*"

RESPONDENT'S EXHIBIT No. 7.

(On letterhead of Pictorial Review Company.)

"Jan. 23, 1917.

W. Smyser,
York, Pa.

Dear Sir:

We are now ready to supply you directly with such copies of Pictorial Review as you can sell *through boys* and to our own local Pictorial Review pattern agency. We cannot permit you to sell these copies to dealers who are now supplied by The American News Company or its branches and any attempt on your part to do so will mean that this arrangement must be discontinued. *Please keep this fact in mind.*

Our pattern agency in your city is P. Weists Sons.

We supply this store with copies at eleven cents per copy plus transportation costs, which means about one cent per copy extra. You can supply them at eleven cents and this saving of one cent per copy should get you the order.

Our price to you on Pictorial Review will be 9¾ cents per copy, delivered, strictly non-returnable but in place of a return privilege we will allow you a discount of 10% off the face of your bill for cash with order which means that Pictorial Review will cost you about 8¾ cents per copy if you clean up each month as you can easily do on the kind of magazine we are producing right now.

We publish on the 10th of each month and your order should be in our hands not later than the 25th of the preceding month to insure early delivery.

The March number is a corker. It has a

'kid' cover, and you know what that means. And right now this Kathleen Norris serial is booming things. So you have a live one to keep step with. Your boys should do a corking business and this pattern agency should surely sell more than for February.

Let's have your order by return mail.

I trust this is just a small beginning of a long and pleasant close business relationship.

Yours very truly,

(Signed) B. A. MACKINNON,
*Circulation Director.*"

---

RESPONDENT'S EXHIBIT No. 8.

(On letterhead of The Pictorial Review Company.)

"Jan. 23, 1917.

J. C. Murphy,
766 Commerce St.,
Tacoma, Wash.
Dear Sir:

We are now ready to supply you directly with such copies of Pictorial Review as you can sell *through boys* and to our own local Pictorial Review pattern agencies. We cannot permit you to sell these copies to dealers who are now supplied by The American News Company or its branches and any attempt on your part to do so will mean that this arrangement must be discontinued. *Please keep this fact in mind.*

Our pattern agencies in your city are McCormack Bros., B'way & 13th St., and 3 others.

We supply these stores with copies at eleven cents per copy plus transportation costs which means about one cent per copy extra. You can

supply them at eleven cents and this saving of one cent per copy should get you the order.

Our price to you on Pictorial Review will be 9¾ cents per copy, delivered, strictly non-returnable but in place of a return privilege we will allow you a discount of 10% off the face of your bill for cash with order which means that Pictorial Review will cost you about 8¾ cents per copy if you clean up each month as you can easily do on the kind of magazine we are producing right now.

We publish on the 10th of each month and your order should be in our hands not later than the 25th of the preceding month to insure early delivery.

The March number is a corker. It has a 'kid' cover and you know what that means. And right now this Kathleen Norris serial is booming things. So you have a live one to keep step with. Your boys should do a corking business and these pattern agencies should surely sell more than for February.

Let's have your order by return mail.

I trust this is just a small beginning of a long and pleasant close business relationship.

Yours very truly,

B. A. MACKINNON,
*Circulation Director.*"

By MR. WELCH:

Q. Did you know that any of these men to whom these letters were sent, were handling the publications —acting as district agents for the Curtis Publishing Company?

A. I know some of them were.

Q. How many of the five names shown on these letters did you know of?

A. Two.

MR. DALY: You are confining your answer to what knowledge you had at that time?

THE WITNESS: At that time. I knew Tenebaum and Koppelman were distributors of the Curtis publications.

MR. DALY: And other publications?

MR. WELCH: I object to that and move to strike it out.

EXAMINER MOORE: The motion is sustained.

MR. DALY: I withdraw that. That was an improper question.

By MR. WELCH:

Q. Did you——

THE WITNESS: I would like to explain my answer about those letters now—explain how they were used.

MR. WELCH: You will have plenty of opportunity to explain that.

By MR. WELCH:

Q. Did you send out any others than the five letters I have shown you, containing similar statements?

A. I think I did.

Q. About how many did you send out?

A. I do not know.

Q. You sent them out generally, did you not?

A. I could not say exactly how many I sent out. It is a long while ago.

Q. You sent them to a number of persons who were acting as distributors for the Curtis Publishing Company?

A. I did not send them because of that fact.

Q. I understand that, but you did send them to a number of persons who were acting as distributors for the Curtis Publishing Company?

A. Yes, sir; I did.

Q. Mr. Mackinnon, this circular that I show you went out to the wholesalers and distributors that we have just been talking about, I presume, did it not?

A. Yes, sir.

MR. WELCH: I offer that in evidence.

(The circular referred to was thereupon received in evidence and marked by the stenographer, "Respondent's Exhibit No. 9," and the same is as follows):

RESPONDENT'S EXHIBIT No. 9.

"HOW TO CLEAN UP

ON

PICTORIAL REVIEW FOR MAY.

1. Make sure every dealer in your city who can sell even one or two copies has a pile on publication day. If need be short order your largest dealers temporarily and keep no copies in your stock-room. Get them all out where they can be seen.

2. Get dealers to keep pile on most prominent space on counter and within easy reach of the customers so copies can be picked up and glanced through.

3. Hang copies in windows open to the big serials we are advertising, the short stories and particularly the cut-out for the youngsters. These all pull sales.

4. Put up the posters where they must be seen and read.

5. After the first few days, pull away copies from smaller dealers who are not selling and concentrate these copies at the big selling places. Supply your reorders from the small, slow-selling places and not from the big places.

6. Get the clerks in the store to read the stories and recommend them to their customers.

7. Get your boys busy getting orders for regular monthly delivery.

If you do these things you will clean up every copy you get because while you are doing these things we shall be advertising in newspapers and magazines all through the month to drive new readers to your retailers.

THE PICTORIAL REVIEW COMPANY."

MR. DALY: We have no objection to that.

By MR. WELCH:

Q. This paper was sent out on April 2, 1917, was it not?

A. That is the date it was printed, but it was not sent out on that date. It was not sent out on April 2nd.

Q. When was it sent out?

A. After the May issue went on sale, April 10th.

Q. 1917?

A. Yes, sir.

Q. That is, referring to "Respondent's Exhibit No. 9," you say that that was sent out after the May 10th issue of 1917?

A. After the May issue went on sale, April 10th, 1917.

Q. After the May issue went on sale, April 10th, 1917?

A. Yes, sir.

Q. After that date?

A. Yes, sir.

MR. DALY: There is a lead-pencil notation on that which I think Mr. Welch should erase.

MR. WELCH: I always like to erase all lead-

pencil notations for my own protection as well as for the protection of everyone else.

By Mr. Welch:

Q. Mr. Mackinnon, who is Mr. Korb, connected with your company?

A. One of my traveling representatives.

Q. Where does he operate?

A. Well, through the east.

Q. Where did he operate last May—1917?

A. I think pretty generally through the Eastern States.

Q. Will you just run through the States?

A. Well, New England States and Middle Atlantic States and Ohio.

Q. That would include Pennsylvania?

A. Yes, sir.

Q. Would that include Connecticut?

A. Yes, sir.

Q. Mr. Mackinnon, can you remember whether you were in Minnesota on June 26th, 1917?

A. No, sir.

Q. Were you out West in the summer of 1917?

A. Yes; at some time or other.

Q. Were you out there in the month of June, 1917?

A. I do not remember.

Q. Mr. Mackinnon, is that your signature (exhibiting paper to witness)?

A. No, sir; that is my name.

Q. That letter was sent out, was it not, by the "Pictorial Review"?

A. Yes, sir; I take responsibility for that. It is signed with my approval.

Mr. Welch: I offer that in evidence.

(The letter referred to was thereupon received in evidence, having been previously marked by the stenographer, for identification, "Respondent's Exhibit No. 2," and the same is as follows:)

RESPONDENT'S EXHIBIT No. 2.

(In ink at top thereof: "Please return and treat in confidence.")

(Pictorial Review Company letterhead.)

"March 8, 1917.

Mr. J. C. Ramroth,
101 Third St.,
Troy, N. Y.

Dear Mr. Ramroth:

So they stuck a gun at your head and you threw up your hands. A number of other wholesalers who have been put in the same position have walloped them right on the neck and I am sorry you didn't do it too. You say that contracts you have with certain publishers make your action necessary. I know of course that isn't true. The contract you have with the Curtis Company is the one gumming the game. The Hearst Company have no objection whatever to your handling other publications, neither have Munsey or the others—none but Curtis who are afraid of the selling power of Pictorial Review. Of course, they know that wherever Pictorial Review has the same distribution and promotion service or a distribution equal to that of the Journal, our sale runs ahead of the Journal so they have climbed into the trough and laid down. They don't want anybody to get by. Fortunately, however, there are a lot of good wholesalers in this country who do not handle Curtis publications and there are many more who do handle Curtis publications that will not let Mr. Curtis put a limit on the growth of their business.

The situation you face, Mr. Ramroth, is simply this: I must go into Troy and put another man into business there. If he isn't a good live wholesaler I've got to get one. Naturally, I am going

to swing every publication that I possibly can to that man because to protect my own end I must make him succeed. Just as soon as his service is as good as yours your good friends who are now so insistent that you should sacrifice all your profit and all the growth of your business to satisfy them will promptly use this other wholesaler as a club on you and if you don't come across with their demands at that time they will endeavor to get aboard that wholesaler. This has happened in so many cases that it is impossible for me to list them here. The Curtis wholesaler in many cases has refused to allow Curtis to dictate as to what publications he shall handle. As they are not responsible for the expenses or losses of his business he will not allow them to regulate the growth of his business in any way. In most cases they have backed up. In other cases they have taken the agency away and given it to someone else and a few months later have come back on that wholesaler's terms.

That would be about the situation in Troy. You would think that in the city of New York they could handle their own distribution independently if anywhere. They broke with the Interborough News Company because the Interborough News Company wouldn't wear their collar. Then they tried to get somebody else to handle it. They couldn't get away with it, however. They handled their own distribution and finally came back to the Interborough and the Interborough News Company handle Curtis publications and is also handling Pictorial Review. And this is true in a good many cities.

I want you to think all this over pretty carefully Mr. Ramroth. We went to the expense of sending our man into your town and closed the ar-

rangement with you and we naturally figured that Troy was closed and you would take care of our May issue, published April 10, the same as a number of other wholesalers will do. Now we've got to send our man back there again. Sooner or later you have got to make a decision on this Curtis business. You might as well make your fight now. I figure that if you do you wouldn't lose anything, except temporarily possibly, and maybe not at all.

Sincerely,

(Signed) B. A. MACKINNON,
*Circulation Director.*"

By MR. WELCH:

Q. Mr. Mackinnon, is that a photographic copy of a letter sent out by the "Pictorial Review" to Mr. Harry Solomon? (Exhibiting to witness.)

A. Yes, sir.

Q. That is, a letter of which that is a photographic copy, was sent out by the "Pictorial Review" signed with your name, to that person?

A. Yes, sir.

MR. WELCH: I offer that in evidence.

MR. DALY: We have no objection.

(The paper referred to was thereupon received in evidence and marked by the stenographer, "Respondent's Exhibit No. 10," and the same is as follows):

RESPONDENT'S EXHIBIT NO. 10.

(Letterhead of Pictorial Review Company)

"March 15, 1917.

Mr. Harry Solomon,
Solomon News Co.,
1111 Walnut Ave.,
Cleveland, Ohio.

Dear Mr. Solomon:

I have yours of the 11th. If you need any

more April copies you had better wire for them. They are moving fast.

Regarding the Philadelphia situation, I wish to say that we have closed up all the cities in the country wherever there were enough dealers to warrant our appointing a wholesaler. Our organization is complete. All of Ohio is covered. Scott Krauss is our agent in Columbus and he has given me full permission to use his name and to say that he is going to stand pat. If the Curtis people want to take his agency away, they can. God help them if they do. Up in Michigan the proposition is that if one agency is canceled, they will all resign. The same is true in New England and on the Pacific Coast and in some other places.

Why don't you and Krauss and Motz and some others get together and form an Ohio Association. There are a lot of good agents in Ohio who are going to handle Pictorial Review anyway and you might just as well all stick together and not lose any business.

Yours very cordially,
(Signed) B. A. MACKINNON,
*Circulation Director.*"

By MR. WELCH:

Q. I show you a letter dated June 26, 1917, addressed to Mr. J. C. St. Marie, signed B. A. Mackinnon, Circulation Director, and ask if that was sent out by the "Pictorial Review." (Handing letter to witness.)

A. Yes; this was sent to Mr. J. C. St. Marie.

MR. WELCH: I offer that in evidence.

MR. DALY: We have no objection to that.

(The letter referred to was thereupon received in evidence and marked by the stenographer, "Respondent's Exhibit No. 11," and the same is as follows):

RESPONDENT'S EXHIBIT No. 11.

(On letterhead of Pictorial Review Company)

"June 26, 1917.

Mr. J. C. St. Marie,
Kasota News Co.,
28 S. 4th St.,
Minneapolis, Minn.

Dear Mr. St. Marie:

I've been glancing over your figures, just now, and I want to pause, for just a moment in the midst of an extremely busy day, to reach out my hand and congratulate you for the very able assistance you have given us in this new method of distribution.

This plan has been more successful than we anticipated. It has been wonderful and you have contributed your full share and I thank you.

You will be interested in knowing that at our directors meeting, this morning we passed upon a whirlwind campaign beginning with September which should make that 4200 copies you are getting jump right up to double that figure. We have laid out a tremendous campaign—a bigger magazine, more pages in colors, more special articles and stories, more departments and a bundle of money for advertising—over a quarter of a million dollars—all to be spent before the end of this year. And *you* gave us the confidence to go ahead and spend the money. Again I thank you and say 'Watch Pictorial Review Climb'—and your profits, too.

Sincerely,
(Signed) B. A. MACKINNON,
*Circulation Director.*"

By MR. WELCH:

Q. Mr. Mackinnon, do you know whether Mr. H. H. De Laye, of Birmingham, Alabama, is a distributor for the Curtis Publishing Company?

A. I know he is now.

Q. When did you get that knowledge—do you know?

A. I do not know exactly.

Q. You knew it at the time that letter was written, I presume, did you not? (Exhibiting letter to witness.)

A. Yes; I think he had written me before about that and told me he was the Curtis agent.

Q. You wrote that letter to him, did you not, on behalf of the "Pictorial Review"?

A. Yes, sir.

MR. WELCH: I offer that in evidence.

MR. DALY: We have examined the letter.

(The letter referred to was received in evidence and marked by the stenographer, "Respondent's Exhibit No. 12," and the same is as follows):

RESPONDENT'S EXHIBIT No. 12.

(On letterhead of The Pictorial Review Company)

"March 10, 1917.

Mr. H. H. De Laye,
1902 Morris Ave.,
Birmingham, Ala.

Dear Mr. De Laye:

I have yours of the 6th. I have already heard from Ehlers and made him our proposition. I'm sorry you didn't take the bit to the teeth and made the 'big change' come at once. The Curtis Co. in New England where the wholesalers are organized, have been backed right up against the wall and have had to take their medicine. There, grudgingly, they consented that these New England wholesalers can handle Pictorial Review. The same is true in several other sections of the country where the wholesalers have gotten together and

formed an organization since Pictorial Review was offered them. I'm sorry that you and Tanenbaum and Bankston and some of the others didn't get together and do the same. I thought you would be the man to lead the procession for open agencies. The Curtis Company wouldn't make up any losses in your business, therefore why let them limit your profits? If a bunch of you stood together and said—'Cancel one agency and you will have the resignation for all our agencies by the same mail,' there wouldn't be a chance in the world of your losing the agency. That's what you should have done. Then you would have this matter settled once and for all because it's going to come up again and again and again as long as the Curtis Company plays the part of the hog.

Yours very truly,
(Signed) B. A. MACKINNON,
*Circulation Director.*"

By MR. WELCH:

Q. Mr. Mackinnon, did the Pictorial Review Company send out the circular which I hand you, to the various distributing agents and wholesalers, many of whom were Curtis Publishing Company agents?

MR. WALSH: Right at this point, counsel for the Commission objects to counsel for respondent characterizing these distributors of the Curtis Publishing Company's publications as Curtis agents. As to whether or not one who handles the products of a concern is an agent or not, is a matter of law. It appears so far in the testimony that these men are mere distributors. I want the objection to stand on the record.

THE WITNESS: Yes, sir, we sent that letter.

MR. WELCH: Do I understand that you object to the language that I used in addressing the witness—my characterization?

MR. WALSH: The characterization of these distributors as Curtis agents.

MR. WELCH: I respectfully suggest that I can use whatever language I please in describing them. If the witness wishes to make any distinction, he can.

MR. WALSH: I object to the question on the ground it calls for a legal conclusion.

MR. WELCH: Make your objection to the question so that the witness can frame his answer to correct it if he does not agree with it.

By MR. WELCH:

Q. Your answer is yes, Mr. Mackinnon?

A. Yes, sir.

MR. WELCH: I offer that in evidence.

(The circular referred to was thereupon received in evidence and marked by the stenographer "Respondent's Exhibit No. 13," and the same is attached hereto and made a part of this record.)

By MR. WELCH:

Q. Is it not a fact, Mr. Mackinnon, that that Exhibit No. 13 of respondent's I have just shown you, was sent out to wholesalers, who were acting as distributors for the Curtis Publishing Company, and also to retailers?

A. I suppose so, but I do not know. We sent it to all the wholesalers we were using.

Q. Many of those wholesalers—among those wholesalers you knew, there were many who were distributing for the Curtis Company and were distributing for the Curtis Publishing Company before they became your wholesalers?

A. Yes, sir.

MR. WELCH: Does that characterization satisfy you?

MR. WALSH: It is very satisfactory.

MR. DALY: I do not think it has any relevancy to the issues in this case, but we would like to have the facts.

MR. WELCH: It will have relevancy later on as the case is developed.

MR. WALSH: Of course, our contention is that the "Pictorial Review" is not on trial for unfair competition or unfair practices. If the circular is an unfair method of competition, it would be a subject of inquiry by the Federal Trade Commission. This is not a contest between the Curtis Company and the "Pictorial Review." The Commission's representatives are here now only to ascertain the entire facts in reference to the question as to whether or not the Curtis Publishing Company, as a matter of fact, in the using of the alleged tieing contracts is stifling or suppressing competition, or whether the use of it has a tendency to create a monopoly and the Commission is not interested in any private controversy between the parties, and is conducting this proceeding in the interest of the public.

When I say, however, that the Commission is interested in ascertaining whether or not the effect of this tieing contract is to suppress competition, I mean, of course, that the inquiry is to whether or not the effect of this contract may be to substantially lessen competition, or tend to create a monopoly, and no objection is raised to the introduction of the exhibit now offered, because its presentation to the witness may go to the question of his interest in the matter and to his credibility.

MR. WELCH: That was all subject, of course, to Mr. Mackinnon producing the data that I have asked for, at some later hearing, on which I will

wish to ask him some questions. Is that satisfactory, Mr. Daly?

MR. DALY: Yes, that is satisfactory. We will recall Mr. Mackinnon for that purpose.

EXAMINER MOORE: You will call him just for that purpose alone?

MR. WELCH: Yes; just for that purpose. Of course I want to reserve my right if any other matters come up in the case, to question him on those subjects. I do not wish to preclude myself from questioning him on any other subject that might become material.

MR. DALY: As I understand it, your cross-examination is closed, except as to those particular matters that you requested him to produce?

MR. WELCH: Yes; and any things that may develop in connection with these matters.

MR. DALY: Any proper cross-examination that comes out of those matters.

MR. WELCH: That is correct. There is nothing to prevent us calling him as our witness if we desire to call him?

MR. DALY: Oh, no. You have the right to recall Mr. Mackinnon as your own witness.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. Yesterday, Mr. Mackinnon, you testified on your cross-examination about a situation at Minneapolis. Will you kindly give all the facts about the Minneapolis situation?

A. I testified there that we did not approach the Curtis wholesaler in that town, the distributor of the Curtis publications. That was one of the cities in which we never went near the man who handled the Curtis publications at all. We went to Joseph St.

Marie, or the Kasota News Company, the name that he does business under, and made our arrangement with him, and he was not the agent for the Curtis Publishing Company at that time. Since then he has taken up the sale of the Curtis publications, and discontinued with "Pictorial Review."

Q. What do you mean when you say "agent of the Curtis Publishing Company"?

A. In this business we frequently used the word "agent" not in its legal sense.

MR. WELCH: Wait a moment; I object to that. I move to strike out that answer.

MR. DALY: Strike it out.

Q. Just state what you mean when you referred to Curtis agents?

A. I mean the distributor of the Curtis publications.

Q. And that includes distributors many times of all publications, does it not?

A. Yes, as a rule, all publications.

Q. You testified yesterday as to an investigation that you made prior to going away from the American News Company, did you not?

A. Yes.

Q. Will you define the territory in which you operated during the progress of that investigation, if you can?

A. Mostly through the East and Middle West.

Q. Did you operate in all places through the East, or did you confine your operations to certain sections?

A. To a very limited number of cities.

Q. Can you name them?

A. No, I could not name all of them.

Q. Can you name any of them?

A. Troy is one of the cities, Cleveland is another, Detroit was another, Pittsburgh was another.

Q. Will you explain to the Examiner what happened in those cities with reference to the solicitation of orders for your paper while that investigation was going on? Mr. Welch has brought out the fact that there were certain orders solicited.

MR. WELCH: That has all been covered by testimony on direct examination.

MR. DALY: You went into it on cross-examination and asked him whether his man solicited orders during that period, and to what extent.

MR. WELCH: I do not think so.

MR. DALY: Or at least you went into that point, as I understand it.

MR. WELCH: I never asked such a question or anything like it.

MR. DALY: Went to Curtis's agents and got orders. Was not that what you asked?

MR. WELCH: I never asked that question at all.

MR. DALY: If that question was not asked, I will withdraw it. What I want to ask is whether it is in the record or not; I do not know where it is in the record, to what extent he testifies that an investigation was made along about the last part of 1916, and the first part of 1917.

Now it has been brought out that during that period, orders were taken from the Curtis agents, that is to say, that his paper sold magazines to these agents, and I wanted to get from him to what extent that went on.

MR. WELCH: What went on, the investigation?

MR. DALY: No; how his men operated during that period.

MR. WELCH: I am going to object to any investigation not made by Mr. Mackinnon personally. I object to hearsay evidence that will be put in under such a question as that.

Q. Would you know about any orders that were received during that period in this territory that you speak of?

A. I surely would.

Q. To what extent did they get orders from these agents that they saw during that period?

A. In not very many cities, but in all cities where my man traveled, we went over the situation very carefully.

Q. Just a word, Mr. Mackinnon. I am speaking of wholesale dealers.

A. When I sent a man into a city, he had instructions to find out everybody——

MR. WELCH: I object to that. I object to going into this investigation again. It is not in response at all to your question. You have asked him about orders, and I object to things that he does not personally know about. He is going on to say what he instructed his men to do.

MR. DALY: He says that he knows about the orders.

MR. WELCH: Let him testify about the orders, Mr. Daly, I do not object to that.

Q. What do you know about that?

A. I testified to the instructions that I gave my men.

Q. What instructions?

A. That they were to go into the city and find out who the independent wholesaler or wholesalers, were, and to find out which was the most efficient and why, and to discuss with them the sale of "Pictorial Review" and, where possible, to get them to take the magazine temporarily for supplying to our local pattern agents in those cities, and to such boys as they could sell to, and news dealers who were not being supplied by the branches of the American News Company.

Q. And they did that, did they, in this limited territory?

MR. WELCH: I object to that.

THE WITNESS: They followed my instructions.

MR. WELCH: Do not answer that, Mr. Mackinnon. I object to that.

Q. What was the result of this? Did you receive orders from these men, or not?

A. Yes, sir, we received orders.

Q. Do you know what orders you did receive?

A. We have a record of them, yes, sir.

Q. Through what men did you receive these orders?

MR. WELCH: Do you mean from or through?

Q. From.

A. My traveling representatives.

Q. And who were the orders from? Do you know that?

A. From the wholesalers in these various cities.

Q. Can you give the Examiner an account of these orders? I mean who they were, and to what extent they were received; how large they were?

A. Not in all cases, but in some. My memory is that in Troy, for instance, we started in there with a small order, I think, some time last October a year ago, and started off with about 50 or 75 copies, and that gradually built up until the time we broke from the News Company, and at that time Mr. Ramroth was taking about 250 copies. That was one case.

In Cleveland, Ohio, the Solomon News Company was taking about 2000 copies there.

By MR. WELCH:

Q. What is the date?

A. I think that was of the April issue.

Q. April issue of what?

A. "Pictorial Review" for 1917.

Q. He is asking you about 1916, is he not?

By MR. DALY:

Q. I am talking about 1916.

A. 1916?

Q. Up to the time that you broke from the American News Company?

A. April was before we broke from the News Company. At Detroit they had taken a quantity of "Pictorial Reviews" previous to our breaking with the American News Company, the Solomon News Company had. They had taken, if my recollection serves me right, about 2000 copies more, and disposed of them. At Trenton, we had an order from Bennett there, built up his business, I think——

MR. WELCH: I object to that as calling for a conclusion of the witness.

Q. Is that all of the cases you can think of?

MR. WELCH: I move to strike that out.

MR. DALY: Strike that out.

A. That is all I can think of now. There are a number of other cases that I could refresh my memory on.

Q. Mr. Mackinnon, you have testified in your direct examination, and you have been questioned on it in your cross-examination, as to the conversation you had with Mr. Douglas in Philadelphia prior to the time that you began, or about the time you began this investigation.

A. Mr. Peacock, you mean.

Q. Mr. Peacock.

A. Yes.

Q. In that conversation was there anything said about the boys?

A. Yes, sir.

Q. What was said about them?

A. Mr. Peacock and I were speaking about the method that had been used in the past by the "Wom-

an's Home Companion," and was used previously by "The Ladies' Home Journal" previous to their breaking away from the News Company, and he joshed me about the idea of our selling our magazine through boys, stating that of course that was merely a subterfuge to get the copies to the news dealers who were not supplied by the American News Company, without any friction with the News Company. I told him that we might plead guilty to something of that sort, that we realized that these wholesalers to whom we sent the magazines might sell those copies not merely to our pattern agents, but also to dealers in the city who were not supplied by the American News Company, and he said, "And possibly to dealers who are supplied by the American News Company when they are sold out." And I said, "Yes, I suppose they would; I would not have any control over them if they did such a thing, and unless the News Company complains, we shall not find fault."

That was the method that was used.

Q. And from those conversations, and in pursuance of this letter——

Mr. Welch: Please do not lead the witness right along.

Mr. Daly: I want to call his attention to this.

Mr. Welch: Well, ask him the question.

Mr. Daly: I am asking him the question.

Q. With regard to the letter in evidence that I am speaking about that Mr. Peacock wrote with reference to boys, and these conversations, what did you do?

A. There was not any question of misunderstanding between Mr. Peacock and myself.

Mr. Welch: I move to strike that out.

Q. What did you do?

A. We went ahead and sent out some letters that you have seen here and made arrangements for cer-

tain independent wholesalers to draw a supply directly from us.

Q. You wrote a letter to these wholesalers that is in evidence with reference to boys, did you not?

A. After we broke with the News Company, yes, sir.

Q. Why did you send that communication?

A. Because so far as possible I wanted to avoid friction with the Curtis Publishing Company.

By Mr. Welch:

Q. You wanted what?

A. I wanted to avoid friction with the Curtis Publishing Company, so far as possible.

By Mr. Daly:

Q. To whom did you send those letters?

A. Those were sent to wholesalers, independent wholesalers throughout the country.

Mr. Daly: I spoke about the letter with reference to the boys, that he wrote. You only wrote one letter about the boys.

Mr. Welch: There are two here among the exhibits.

Mr. Daly: I have not the exhibits, and do not know what dates they were.

Q. I am speaking about the letters that you wrote in February about the boys.

Mr. Welch: What is that?

Q. You wrote to us three letters about boys.

A. In the letter I wrote in February, I said we had definitely abandoned any idea of boy sale.

Q. Those are the letters that I had referred to.

A. We had at that time definitely abandoned any idea of a boy sale. We realized that it was impossible to develop the business in that way at that time.

Q. Yesterday you stated that every retailer could get copies from the American News Company. Will you just explain what you meant by that?

A. That every dealer could get copies?

Q. Yes. How could they get them?

A. They could get them by sending to the nearest branch of the American News Company, and paying their money for them.

Q. Did they, as a matter of fact, do that?

A. No, not in all cases. In every city there are a number of dealers that are not supplied by the branch of the American News Company—by any branch of the American News Company, that are supplied only by the independent wholesaler in that city.

Q. Do you know why they are not?

A. In a great many cases they do not want to have two accounts.

MR. WELCH: I object to that, as to the reason why other persons do certain things, and I move to strike that answer out. It is an answer to an improper question.

MR. DALY: I will withdraw that because he has already testified to it.

MR. WELCH: You withdraw the question and strike the answer out, then, as I understand it?

Q. Now, yesterday. you testified about a number of publications, Hearst publications, and gave them in detail?

A. Yes, sir.

Q. Will you kindly give the character of those publications and the circulation, as nearly as you possibly can, if you know?

A. The Hearst group, the first one is "Cosmopolitan." It is a magazine that covers a general field, by which I mean it has special articles, serial stories and short stories; it has a circulation of a million copies a month.

"The Hearst Magazine" is a magazine almost similar, the same description would fit it, and it has a circulation of about 600,000 copies a month.

"Good Housekeeping" is a magazine for women. It has special articles, fiction, household departments, and embroidery, fashions. The circulation is about 400,000.

Q. Is that a competitor of your magazine?

A. In an advertising sense it is.

MR. WELCH: I think that is a conclusion and I object to it.

MR. DALY: I hardly think it is a conclusion, but I do not insist upon that answer.

MR. WELCH: If you show the similarity, that is sufficient.

A. (Continuing). "Harper's Bazaar" is a higher priced publication. It is for women and has special feature articles, and particularly fashions.

Q. You are speaking of the "Bazaar" now, are you?

A. "Harper's Bazaar."

Q. Does it have the same type of material in it that your paper contains, "Pictorial Review"?

A. About the same.

Q. And the "Woman's Home Companion"?

A. Yes; about the same.

Q. It has about the same?

A. Yes.

By MR. MILBURN:

Q. Is "Harper's Bazaar" and "Harper's Magazine" the same thing?

A. Oh, no.

Q. Then "Harper's Bazaar" should be added to this list.

A. "Harper's Magazine" is not owned by Hearst.

By MR. WELCH:

Q. Who owns "Harper's Bazaar"?

A. Hearst owns "Harper's Bazaar."

Q. Who owns "Harper's Magazine"?

A. Harper & Brothers.

Q. A different ownership?

A. Oh, yes. Harper & Brothers sold "Harper's Bazaar" to Hearst.

By Mr. Daly:

Q. Proceed.

A. "Motor" is a magazine for automobile people. It has a limited circulation; I do not know how many. There are better authorities in the room than I on that subject.

"Motor Boating" is for motor boaters, and has a limited circulation in that field.

"Puck" is a humorous publication, recently acquired by Hearst.

The Munsey group, made up of "Munsey's Magazine," which is a general magazine with fiction and special articles, has a circulation of, I should say, somewhere about 300,000.

"Argosy" is a pure fiction magazine, nothing but fiction, and it has about 250,000, I should say, or possibly more than that.

"Railroad Men's Magazine" is a fiction publication, and "All-Story Weekly" is a weekly magazine of fiction. The circulation of these latter ones I do not know.

Mr. Welch: If you do not know it, please do not give it.

Q. No; do not give anything except what you know.

A. "Literary Digest" is a weekly publication devoted to the news of the world, and special articles. I know that its newsstand circulation is about 200,000 copies a week.

"Collier's Weekly" is a weekly publication, special articles and fiction, with a circulation of about one million a week.

I think those, together with the Curtis publica-

tions, and our own, are the only ones that were mentioned yesterday, as I remember.

Q. In order to distribute magazines independently what sort of circulation is required?

A. A fairly large circulation.

Mr. Welch: I am going to object to that. I did not understand the purport of that question I think that is a very improper question, and is calling for the conclusion of the witness.

Mr. Daly: I will preface that.

Q. You have testified that you have had large experience in the circulation of magazines?

A. Yes, sir.

Q. And are familiar with all of the avenues of distribution, are you not?

A. Yes, sir.

Q. Both independent and otherwise?

A. Yes, sir.

Q. From your experience and knowledge, I ask you what sort of circulation is necessary to distribute magazines such as yours, independently?

Mr. Welch: I object to the question as improper, calling for the conclusion of the witness, and not based on any fact given in evidence.

Mr. Daly: Mr. Examiner, I have based that question by laying the proper grounds, setting out his experience, and he says he knows all about the distribution of the various magazines in every respect, and then I ask the question that is here in the record, and I ask that that answer be taken.

Mr. Welch: In the first place, this is not direct examination; he is simply calling a witness who is a distinctly interested witness in this case, to state his conclusion as to what is necessary to establish a certain thing. You might just as well ask him whether this case should be decided one way or another.

EXAMINER MOORE: Objection overruled.

MR. WELCH: Exception.

THE WITNESS: It requires a circulation of pretty considerable size, otherwise the wholesaler cannot make enough money out of the distribution in any one city to justify his handling and making a distribution that would be effective and efficient.

Q. I think Mr. Welch brought out yesterday, the fact that a certain circular had gone in here, and your testimony with reference to that was that you sent men and circulars to close up certain situations.

MR. WELCH: That was using his own language.

MR. DALY: Using his own language, I think. I have not been able to have the record.

Q. What was your first step in that closing-up proposition that you described?

A. A man went into a city, went over the ground and visited the retail news dealers, the leading ones, found out from whom they were getting their magazines, who was giving them the best service, and who they preferred to do business with.

Q. When did you begin to close up?

A. Shortly after February, 1910.

Q. That is after you had sent the notice to the News Company, or not?

A. Yes, sir. Previous to that, we had done some tentative work, but we had not given any agencies, or placed any wholesalers definitely previous to that time. We had not appointed any.

Q. The learned counsel on the other side questioned you particularly with reference to the cost of doing business through the American News Company. Now I ask you to fully describe the cost, if you know it, of doing business around through the wholesalers that are spoken about in this record, to the retailer. I think the inquiry was dropped by the learned counsel,

and I want you to continue your statements relative to the comparative expenses of the ways of doing business.

A. Our newsstand sale is made up of two sections, both wholesale and retail. Previously it was entirely wholesale. From the American News Company we secured a price of 8¾ cents a copy. Now we get a price of 9¾ cents from the wholesaler, and 11 cents from the retailer. We supply our magazine directly to a large number of retailers in cities that are too small to support a wholesale news dealer. We make a larger margin on those copies which we sell at 11 cents as against 8¾ cents than we did previously, of course, through the News Company, and we get more money from the wholesaler, and we do not have the expense of the returns which we had before through the American News Company; not only that, but we are able through the independent organization, to hold our percentage of returns lower, and we do not have so many magazines to waste.

Going through the American News Company is very wasteful. Now, we do not have such a high percentage of returns, and accordingly have less magazines to destroy. The result is getting the largely increased sum of money from the retail news dealer, and a large sum from the wholesaler, no expense on returns, and a smaller number of copies to waste, and we are therefore infinitely better off than we were when we went through the News Company, aside from the fact that we have a largely increased sale.

Q. When you stated that you could do business cheaper through the wholesaler than you could through the American News Company, those are the reasons; is that correct?

A. Those are the reasons; and all those things should be taken into account.

Q. Do you know the situation as to retailers returning copies to the American News Company?

A. Yes; where the retailer has to return the copy to the branch of the American News Company, he has to pay the cost of getting them back and then we have to pay for having them brought from the branch to New York.

MR. WELCH: This is all in the record, in the first place, and I object to testimony here relating to the situation of the retailers in this case. We have nothing to do with that in this proceeding, and there is no allegation in the complaint that affects any retail business.

MR. DALY: He went into this question of cost of getting the magazines out to the consumer.

MR. WELCH: The cost to him; not the cost to the retailer; that is what you are trying to get in now.

MR. DALY: And we ought to have a right to show that this retailer is hampered and has an increased cost put upon him in order to get these papers out to the people. I think we should be able to show it.

MR. WELCH: I submit that that is entirely without any issue in this complaint, and nothing with which we have anything to do.

MR. DALY: It has the natural effect of decreasing orders that he might otherwise get. That is the issue we are trying. We are trying to show that because of these contracts, the Pictorial Review Company had to use all these other devices and that no matter what devices they use, they are lessened in their competition with this other paper.

MR. WELCH: All the figures relating to these transactions are in the record.

MR. DALY: I beg to differ with you on that.

MR. WELCH: And the Commission and the Court can conclude from those what the effect of this thing is.

MR. DALY: I insist upon that question.

EXAMINER MOORE: Objection overruled.

MR. WELCH: Exception.

Q. Answer the question, please.

(The stenographer read as follows):

"Q. Do you know the situation as to retailers returning copies to the American News Company?

A. Yes, where the retailer has to return the copies to the branch of the American News Company, he has to pay the cost of getting them back, and then we have to pay for having them brought from the branch to New York."

A. Now, we have known of that expense and the fact that the dealer is not put to that expense——

MR. WELCH: There is no question. I object to that.

MR. DALY: He is answering the question.

MR. WELCH: He is stating some conclusions now. He has already answered the question.

Q. Do you know the effect of that upon the distribution of your paper?

MR. WELCH: I object to that as calling for a conclusion.

MR. DALY: I am asking for his experience and what he knows about the effect upon his business in circulating his magazines.

EXAMINER MOORE: He may answer.

MR. WELCH: Exception.

A. I know that it has increased our sale to the retailers very considerably.

Q. Is that your answer, that it has increased the sale?

A. When the dealer has had no expense on returns, he has taken more copies and sold them.

Q. I do not understand that.

A. If I understand your question correctly.

MR. WELCH: I object to cross-examining your own witness after he has made a statement.

MR. DALY: I have a right to know the facts about this question.

(The stenographer was again requested to read the question and answer, and read as follows.)

"Q. Do you know the situation as to retailers returning copies to the American News Company?

"A. Yes. Where the retailer has to return the copies to the branch of the American News Company, he has to pay the cost of getting them back, and then we have to pay for having them brought from the branch to New York."

A. (Continued). Of course, that held down the sale when they had to pay the expense of returns to the branch of the American News Company, they naturally would not take any copies that they had a possible chance of having left on their hands and on which they would have to pay transportation back to the news company.

Q. You have been questioned at length by Mr. Welch with reference to the circulation through newspapers, and you mentioned the Cincinnati "Commercial" as one. What character of paper is that?

A. That is a newspaper for business men particularly.

Q. In what respect?

A. It is distinctly a newspaper for shippers and manufacturers and people of that sort.

Q. What kind of information does it contain?

A. It is mostly made up of business news and things like that.

Q. You also spoke of "uncertainty in the distri-

bution in this respect" referring to the distribution in the newspapers. What did you mean by that?

A. At any time we might have that arrangement canceled by the newspaper refusing any longer to allow their employees to continue making distribution for us, using their facilities.

Q. As I understand that, I think you testified to that yesterday—I am not clear about it—that the employer of the paper that distributes it gets paid, and not the newspaper; is that the idea?

A. The newspaper gets nothing; it is just the man whom they designate.

Q. The man whom they designate to do what?

A. To make the distribution for us.

Q. It was brought out in your testimony, or you testified, rather, that you finally got a man in every place. Will you please state definitely what you meant by that expression?

A. We got somebody to make the distribution regardless of the expense. We had to have our magazines distributed in that city or lose the sale that we had built up over a long period of years; so we kept at it until we found somebody, even if we had to pay them more money than we were getting out of the sale of the magazines.

RE-CROSS-EXAMINATION.

By MR. WELCH:

Q. I want to ask one question. You gave the circulation, what you thought was the circulation, of the "Munsey" group and the "Hearst" group, the "Literary Digest" and "Collier's." I want to know how nearly accurate those circulation figures are that you gave. Do you know them to be correct, or are they approximate?

A. For the "Munsey," it is approximate; in the

"Hearst" case I have been told by men of that organization who ought to know, and in the case of "Literary Digest" and "Collier's," the same. Regarding "Literary Digest," I only mentioned the news stand sale. That was not the total sale.

Q. That was not intended to be the total sale?

A. No.

Q. Does that apply to the Munsey group and the Hearst publications?

A. No. I do not know what the total circulation of the "Literary Digest" is, but I have been told definitely what the sales of "Literary Digest" is on the news stands.

---

CHARLES H. SMITH, called as a witness on behalf of the Commission, having been first duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. WALSH:

Q. What is your name?

A. Charles H. Smith.

Q. Where do you reside?

A. I reside in Paterson, New Jersey.

Q. What is your business?

A. I am connected with "Collier's Weekly," handling the news stand sale.

Q. How long have you been in that position?

A. Since the summer of 1913.

Q. What are your duties in that position?

A. To appoint wholesale agents and have them carry on distribution with the retail dealers in their respective cities, and to do anything that there is in connection with that work.

Q. When you say you appoint wholesale agents in the various cities, how is that brought about?

A. My traveling men visit these cities. We have confined ourselves to towns principally of ten thousand population or over. They call on the various retailers, get their point of view, and see who they would rather do business with and try to secure these wholesale agents to take on "Collier's," add "Collier's" to their list of publications.

Q. What is the character of "Collier's"?

A. It is a magazine of special articles, fiction, editorials, pages devoted to news pictures, and so on.

Q. What is the circulation of "Collier's Weekly"?

A. The total circulation?

Q. Yes.

A. Over one million copies a week.

Q. How is it circulated?

A. Principally through mail subscriptions, through my end of it through the wholesale agents, some through the American News Company, and some through boys.

Q. You have nothing to do with the mail subscription of "Collier's Weekly"?

A. Not a thing.

Q. What circulation does your work involve?

A. How much circulation?

Q. What circulation? What is the character of it?

A. Simply through these wholesale agents and the American News Company.

Q. To what extent does the American News Company distribute "Collier's Weekly"?

A. You mean in figures?

Q. Yes, and how is it done?

A. About fifteen thousand per week, at the present time.

Q. Through how many branches or agencies of the American News Company does it circulate "Collier's"?

A. Through all of them, I think.

Q. About sixty?

A. About sixty, something like that.

Q. Do you know how many other wholesale agencies in the United States "Collier's" utilizes in the circulation of its weekly?

A. We have close to seven hundred, I think.

Q. Who are those wholesale agents generally throughout the country? What character of business are they engaged in, and what men do they employ?

A. In the distribution of local daily newspapers to a great extent, and other publications, some of them including Hearst's publications, the Munsey group, and so on.

Q. Do you carry on constant efforts to increase these wholesale agencies in the several towns throughout the United States?

A. Yes; we try to secure new ones all the time.

Q. How do you make these selections?

A. Primarily by traveling men visiting them, and in other cases we have requests come right to us from the various cities.

Q. How long have you been engaged in the business of circulating magazines, including your present employment since 1913 with "Collier's Weekly"?

A. That is all. In 1913, I started this work.

Q. Were you employed in circulating magazines previous to that time, Mr. Smith?

A. No; except as my duties were with Mr. Beck when he was Collier's General Sales Manager, which took in the sale of the publication through all sources. I was then connected with Mr. Beck.

Q. An assistant to Mr. Beck?

A. Yes, sir.

Q. How long, then, have you been in the newspaper or periodical business—in the periodical circulation business?

A. Seven years next month.

Q. All of that time with "Collier's"?

A. Yes.

Q. Have you become familiar with the wholesale distribution of magazines generally in the cities of the United States?

A. I have a pretty fair knowledge of it, I think.

Q. You may state, if you know, generally, how many wholesale distributors of periodicals and magazines there are throughout the cities of the country.

A. I could not say exactly. There must be considerably over a thousand.

Q. What I am inquiring specifically about is how many there are usually in each city.

MR. WELCH: I object to that question, how many there are usually in each city, unless he knows from his personal investigation in those cities, or in some cities sufficient to show that it is a usual thing.

MR. WALSH: I think perhaps the question is more or less technical.

Q. I will ask you if you know from your knowledge of the industry, how many wholesale agencies there are generally in each city in the United States.

MR. WELCH: I make the same objection.

(Question read.)

MR. WELCH: I will withdraw that objection if he knows of his own knowledge.

A. How many agents there are?

MR. WELCH: No, that is not the question. The question is, "do you know of your own knowledge how many there are?"

Q. How many there are generally in each city in the United States.

A. Generally there is only one worth while in each city.

MR. WELCH: No; the question is, do you know of your own knowledge. Read the question, please.

(Question read.)

Q. And the answer is what?

A. Generally there is only one worth while in each city. That is my knowledge.

Q. What character of publications or periodicals do these wholesalers generally distribute?

A. I do not quite understand the question. What character?

Q. Yes, what character of publications do these wholesalers generally distribute?

A. The publications of considerable circulation, publications which will show them some reward for their work.

Q. I will put it this way: Do they generally sell and buy newspapers wholesale, and the Hearst publications?

A. Yes.

Q. And what others?

A. Curtis publications, "Munsey's," recently the "Literary Digest," "Pictorial Review," "Collier's."

Q. Generally the Curtis publications?

A. In a number of cases.

Q. In your employment as circulating manager of "Collier's Weekly" do you make it your business to ascertain what wholesale agencies distribute the publications of the Curtis Publishing Company?

A. I have not made any particular effort to get the so-called Curtis agency.

Q. No, I did not ask you that, whether you have tried to get it or not; I asked you do you generally ascertain who circulates the Curtis Publishing Company publications in the cities—what wholesale agency?

A. I do not understand the question.

(Question repeated.)

Q. That is, do you or your men, when you are ascertaining the situation in reference to the circulation of your Weekly throughout the cities of the United States, ascertain what agencies circulate the Curtis publications?

A. Why, yes; they inquire as to who sells the Curtis publications.

Q. Do you sometimes endeavor to have the wholesaler who handles the Curtis publications, also handle "Collier's Weekly"?

A. Yes.

Q. What success have you had in procuring wholesalers who handled the Curtis publications, to handle the "Collier's Weekly"?

A. I do not know of an instance where the Curtis Company have refused to allow their agents to take on "Collier's."

Q. When you are desirous of procuring the services of a wholesaler who handles Curtis publications to take on the circulation of "Collier's," what do you do, if anything?

A. I do not do a thing. The roadman usually fixes that all up and simply sends in the man's order.

Q. Do you find it necessary to enter into any negotiations with the Curtis Publishing Company?

A. I receive reports——

MR. WELCH: I object to the statement as to reports.

Q. Let him finish his answer. What kind of reports?

MR. WELCH: I think in view of the situation that I will let him testify to that, because I want to say that there are certain matters of that character that will necessitate the calling of so many witnesses to prove the giving of information to a man, that I think it will facilitate all the proceedings if we will let such a question go in,

MR. WALSH: I think that is true. And outside of the question as to whether or not he is entitled to testify generally as to the condition in the industry, I think you will find that Mr. Smith is an entirely disinterested witness.

Q. You may answer the question, Mr. Smith.

A. My men, as they call on agents who are handling Curtis publications, have found it necessary to secure permission from the Curtis people before the agent will add "Collier's" to his list of publications, and in a number of cases the roadman has wired to the Curtis Company and secured the necessary permission to put the man on.

Q. How many agents and representatives do you have traveling about the United States looking after the circulation of "Collier's Weekly" through the wholesalers?

A. We only have two now.

Q. Who are they?

A. Mr. Miller and Mr. Herndon.

Q. Where are they located?

A. Traveling all the time. Mr. Miller is in Texas now and Mr. Herndon is in New York State.

Q. Do I understand you, then, that before a wholesaler who handles Curtis publications can take on the wholesale circulation of "Collier's Weekly," he must obtain permission from the Curtis Publishing Company?

A. In a number of cases that has been true.

Q. Can you cite any instances of that?

A. I cannot recall any particular instances just now, Mr. Walsh, but I know of reports coming in where the roadman says that he has done that, and I take his word for it as a traveling representative.

Q. You are the manager of the newsstand department of "Collier's Weekly"?

A. Yes, sir.

MR. WALSH: I want to introduce some letters, or correspondence, and I would like to introduce them wholesale, if I can.

MR. WELCH: If you will let us look over them, you can introduce them wholesale. I do not want to take any more time than is necessary.

MR. WALSH: Yes. (Handing correspondence to Mr. Welch.)

Q. Do you know a wholesale dealer in periodicals at Cortland, New York, by the name of I. A. Dexter?

A. Yes, sir.

Q. Has he been the wholesale distributor of the Curtis Publishing Company at that place?

A. I think he has. He has been, I know.

Q. Was he also the distributor of "Collier's Weekly"?

A. For a while, yes.

Q. And there was some difficulty in reference to the circulation of "Collier's Weekly" by him at wholesale, was there not?

A. Yes, some question, some dispute.

Q. I will show you Commission's Exhibits Nos. 25 to 34, both inclusive, and ask you if that contains the correspondence in reference to that difficulty, that passed between Mr. Dexter and you as newsstand manager of "Collier's Weekly," and the correspondence which "Collier's Weekly" had through you with the Curtis Publishing Company (handing letter to witness)?

A. Yes, that is the correspondence.

MR. WELCH: We have no objection to the admission of that correspondence in evidence.

MR. WALSH: We offer in evidence correspondence marked as Commission's Exhibits 25 to 34, both inclusive.

(The documents were received and marked by

the stenographer "Commission's Exhibits 25 to 34, both inclusive," and the same are as follows):

COMMISSION'S EXHIBIT No. 25.

"Cortland, N. Y., Feb. 9 17

Colliers Weekly,
New York
Dear Sir

I have recently received two notices from the Curtis 'Pub' Co. calling my attention to the provision in my contract with regard to my doing business with any other Publishing Co. Now while the letters were sent generally to all agents I think it would be monkeying with the buzz saw if I continued to handle Colliers in the face of my deposit with them, and I wish you would secure another representative for this town right along and return this letter, that if necessary, I can show it to them.

I. A. DEXTER."

---

COMMISSION'S EXHIBIT No. 26.

(Letterhead of COLLIER'S—The National Weekly)

"Feb. 14, 1917.

Mr. I. A. Dexter
95 Main Street,
Cortland, N. Y.
Dear Mr. Dexter:

Thank you for your remittance of $2.74 covering our February 1st statement.

Your letter of the 9th was very interesting, and I going to ask your permission to refer this letter to MR. DOUGLAS of the Curtis Company. May I do it? Because time and again when our traveling representatives have tried to secure a Curtis Representative to handle COLLIER'S and run

up against the same objection, they wired MR. DOUGLAS for your letter was very much of a surprise to me.

Will you let me hear from you by return mail?

Yours very truly,

COLLIER'S
The National Weekly,
C. H. SMITH,
*News-Stand Department.*

CHS. IC
Enc."

(At bottom of letter)

"Cortland N. Y. Feb. 15

Mr. C. H. Smith
Dear Sir:

You have my permission do business with Mr. Douglas and use letter.

(Signed) I. A. DEXTER."

---

COMMISSION'S EXHIBIT No. 27.

COPY OF CIRCULAR LETTER SENT BY CURTIS COMPANY TO ALL DISTRIBUTORS HANDLING "COLLIER'S" IN CONJUNCTION WITH THEIR PUBLICATIONS.

"February 14, 1917.

Dear Sir:

At your request, made according to Clause 13 of your contract with us, we sanctioned your taking a wholesale agency for COLLIER'S WEEKLY, with the understanding that you would limit *to newsdealers only,* your deliveries of that periodical.

Later, similar sanction was given to three or four other District Agents who made the same request.

Recently our attention has been called to efforts, inconsistent with the condition upon which we sanctioned the arrangement, made or planned to induce P-J-G boys to sell COLLIER'S.

ARE YOU NOW WHOLESALING COLLIER'S TO BOYS?

A proper regard for our mutual interests now requires that we ascertain whether or not you are supplying COLLIER'S to boys. We shall appreciate an early reply with full particulars.

This is a general letter to each District Agent at whose request we sanctioned a COLLIER arrangement like that made by you.

Very truly yours,

THE CURTIS PUBLISHING COMPANY,

(Signed) J. F. DONNELLY,

C #1 Dictated by *District Manager.*
MED Rb M. E. Douglas"

---

COMMISSION'S EXHIBIT No. 28.

"February twentieth
1 9 1 7

Mr. H. C. Peacock,
C/o Curtis Pub. Co.,
Philadelphia, Pa.
Dear Mr. Peacock:

Regarding the attached letter from Mr. Dexter of Cortland, New York—he seems to be very much upset over a letter recently sent out by your Company, calling attention to a particular clause in his contract with you.

While you may have sent out such a letter, I am almost certain it was not intentionally directed at COLLIER'S. If so, won't you write me a little note with the return of Mr. Dexter's letter so I might get him straightened out?

Trusting everything is going splendidly with you, I am

Cordially yours,"

COMMISSION'S EXHIBIT No. 29.

(Letterhead of The Curtis Publishing Company)

"February 21, 1917.

Mr. C. H. Smith,
Collier's,
New York City.

Dear Mr. Smith:

Your letter of the 20th is just received. Our contract, as you doubtless know, requires the District Manager to get our permission to share his time between our magazines and others, and we have invariably insisted that he do this. Now in this case Mr. Dexter omitted consulting us, and we feel that it is necessary to call time on him, especially in view of the present turbid conditions in the field of independent distributing.

Regretting for your sake that Mr. Dexter did not consult us before taking on the Collier Agency, I remain,

Very truly yours,

(Signed) ROSCOE PEACOCK."

---

COMMISSION'S EXHIBIT No. 30.

"February twenty-third
1 9 1 7

Mr. R. C. Peacock,
Curtis Publishing Company,
Philadelphia, Pa.

Dear Mr. Peacock:

Your letter of the 21st regarding Mr. Dexter has been received and the peculiar thing is that Mr. Dexter has been working for us for fully a year and there has never been any question until

recently. From this I judge that Mr. Dexter has not been singled out from the rest but that a general letter must have been sent to all your agents recently, and that Mr. Dexter fell for that particular part of it.

However, I presume you will have no objection to him continuing with COLLIER'S.

Will you be good enough to return his letter to me?

Very truly yours,"

---

COMMISSION'S EXHIBIT No. 31.

(On letterhead of The Curtis Publishing Company)

"February 26, 1917.

Mr. C. H. Smith,
Collier's,
New York City,

Dear Mr. Smith:

I return herewith Mr. Dexter's letter as requested.

We are not attempting to disturb your relations with anyone except Mr. Dexter as far as Curtis District Agents handling Collier's are concerned. I explained our attitude regarding Mr. Dexter in my last letter.

We feel that Mr. Dexter's failure to consult us in regard to his arrangement with you has put the matter on a different basis from the other District Agents.

Very truly yours,

(Signed) ROSCOE PEACOCK."

COMMISSION'S EXHIBIT No. 32.

"March 2, 1917.

Mr. I. A. Dexter,
#95 Main St.,
Cortland, New York.
Dear Mr. Dexter:

With further reference to your letter of February 9th, in which you spoke of a letter you received from the Curtis Company, calling attention to a certain clause in your contract—with your permission I referred this letter to Mr. Peacock of the Curtis Company. His reply was very unsatisfactory because it was so indefinite. From what he said, one would imagine that you were the only Curtis agent who received such a letter, but I know differently.

From the attitude of some of the other agents, I am of the opinion that they are going to pay little or no attention to the letter.

It seems to me that if I were in your position —in business to make money and as good a living as I possibly could, I would accept the agency of as many different, good publications as I could get hold of, and I would do everything I could to stimulate the sale of those publications in as many ways as possible. It would be a different matter if the Curtis Company were paying your rent and standing a portion of your expenses.

Will you let me know if you have heard from the Curtis Company, and what action you have decided to take as regards COLLIER'S?

Very truly yours,

COLLIER'S,
The National Weekly,
*News-Stand Department."*

CHS/LB

COMMISSION'S EXHIBIT No. 33.

"Cortland, N. Y. Mar. 5, 1917.

Colliers Weekly,
New York.
Mr. Manager,
Dear Sir:

In view of your recent unsatisfactory reply from the Curtis 'Pub' Co—think that it would be better for both of us if you would arrange for some other dealer in Cortland to handle your business, and with that end in view I would suggest the names of two firms that might be interested in the distribution and sale of the Colliers Weekly, they are N. F. Mather and C. D. Sanders both of Main St. Cortland; perhaps you may prefer to pick your own company, but I am making this suggestion in good faith and if it is of any value to you then you are welcome to it. Our relations have been very satisfactory to me and I hope they have been to you. I appreciate your suggestion about my running my own business, that thought has occurred to me a good many times in the last thirteen years but every now and then I listen to some good adviser which gets me into trouble, not because of it but in spite of it.

Therefore, I will expect to hear from you before I am forced to give up as your representative, as the Curtis Co. is pressing me for a reply.

(Signed) I. A. DEXTER."

---

COMMISSION'S EXHIBIT No. 34.

"March 6, 1917.

Mr. I. A. Dexter,
#96 Main St.,
Cortland, New York.
Dear Mr. Dexter:

In view of yours of March 5th, we have ar-

ranged to cancel your order so that the last copies you will receive will be those on sale this week—March 10th.

A statement of your account will go to you within the next day or so, which I hope you will give your usual good attention.

Thank you very much for your efforts in our behalf.

Very truly yours,

COLLIER'S,
The National Weekly
*News-Stand Department.*"

CHS/LB

By MR. WALSH:

Q. As a result of the objection of The Curtis Publishing Company to Mr. Dexter handling "Collier's" his representation of "Collier's" as a wholesaler ceased; is that true?

A. Yes, that is true; it stopped.

Q. Mr. Smith, I will show you Commission's Exhibit No. 35, and ask you if that is a circular letter which was sent out by you to wholesalers of publications for "Collier's National Weekly"?

A. Yes, that is a copy of the letter.

Q. When did you send that out, about what time?

A. I cannot recall exactly.

Q. Directing your attention to a letter attached to it, dated April 14, 1916, about what time would you say that this circular, marked Exhibit No. 35, was sent out?

A. I should say some time in March, 1916.

Q. To whom did you send out this circular marked "Commission's Exhibit No. 35"?

A. I could not say whether it went to all wholesalers on my books at that time or not.

MR. WELCH: I think if you will read the letter, you will see. It is stated in the letter.

Q. You say that you sent copies of that circular to all the wholesalers on your books?

A. All those whose orders I adjusted on account of excessive returns.

Q. How extensively was this circular, Exhibit No. 35, circulated? I am trying to ascertain to whom that went.

A. I could not tell you exactly.

Q. I mean approximately or generally.

A. Perhaps 100 or 150 agents.

Q. You should say 100 or 150 of the wholesalers who wholesaled Curtis publications?

A. Yes; who were wholesaling Collier's publications.

Q. Collier's publications, I mean. Yes. Do you know whether or not some of the wholesalers to whom you sent this circular were also wholesaling Curtis publications?

A. Yes; I suppose they were.

Q. I will show you Commission's Exhibit No. 36, which is a letter dated April 14, 1916, addressed to you and signed by the Curtis Publishing Company, M. E. Douglas, Manager Sales Division, and ask you to say whether you received that letter from the Curtis Publishing Company?

A. I did receive that letter.

Q. I will show you attached to that letter, a copy of a letter marked "Commission's Exhibit No. 37," and ask you if that is your reply to the letter marked "Commission's Exhibit No. 36"?

A. It is a copy of my reply.

MR. WALSH: I offer in evidence Commission's Exhibits Nos. 35, 36 and 37.

MR. WELCH: No objection.

(The documents so offered were received in evidence and marked by the stenographer "Com-

mission's Exhibits Nos. 35, 36 and 37," and are as follows):

COMMISSION'S EXHIBIT No. 35.

(Letterhead of Collier's)

"In an effort to regulate your returns, we have slightly reduced your order effective with the April 22nd issue, but it has occurred to me that this drop can be made up very quickly on the strength of the dandy all-around magazine we are publishing.

Watch the distribution and sale of COLLIER'S very closely for two or three weeks and see where improvements can be made.

If later developments have not warranted this reduction, please advise us *now*.

Have you ever given any real consideration to the unusual opportunities our proposition affords the wholesaler who pushes it enthusiastically?

Think it over—

NO CASH BOND.

NO MONEY IN ADVANCE.

NO QUOTA FIGURES.

NO VOLUMINOUS REPORTS.

FULL RETURNS.

ONE CENT PROFIT PER COPY (on 50 or more per week).

Isn't each of these a distinct advantage, and as such, shouldn't they be appreciated?

Very truly yours,

COLLIER'S,
The National Weekly
CHS/LB *News-Stand Department.*"

COMMISSION'S EXHIBIT No. 36.

(On letterhead of The Curtis Publishing Company)

"April 14, 1916.

Mr. C. H. Smith, Circulation Manager,
Collier's Weekly, 416 West 13th Street, New York City

Dear Mr. Smith:

Here and there throughout the country District Agents with whom prior arrangements to wholesale our publications were made, have with our tacit approval undertaken to wholesale 'Collier's.'

Generally speaking, no result detrimental to our circulation interests have heretofore followed. But we are beginning to notice one result to some extent unfavorable to us due to a letter sent out by your company. We refer to the letter which describes your offer in display type as follows:

NO CASH BOND.
NO MONEY IN ADVANCE.
NO QUOTA FIGURES.
NO VOLUMINOUS REPORTS.

In sending out your letter we presume that you did not consider its possible effect upon the state of mind of certain agents wholesaling our publications. Inasmuch as generally speaking, we have not requested wholesalers under our special form of contract and bond to refrain from wholesaling 'Collier's,' we venture to suggest that a result mutually more satisfactory to you and to us may be obtained by not over-emphasizing your plan's features described in capitals above.

This, of course, is merely a suggestion to a brother publisher. If our positions were reversed,

we believe we should welcome a similar suggestion from you.

Very truly yours,

THE CURTIS PUBLISHING COMPANY,
(Signed) W. E. DOUGLAS,
*Mgr. Sales Div.*"

MED BHL

---

COMMISSION'S EXHIBIT No. 37.

"April 26, 1916.

Mr. M. E. Douglas, Circulation Manager,
The Curtis Publishing Company,
Philadelphia, Pa.

Dear Mr. Douglas:

We are sorry if the letter of ours to which you refer in yours of the 14th instant, was the cause of any discontent in your distributing organization. This letter, however, was not directed to agents who are handling the Curtis publications in conjunction with COLLIER'S alone, but rather to a small portion of our distributors whose returns we were anxious to regulate.

After considering it from your viewpoint, it is easy to appreciate the mental effect it might have had on some, but need we say that to purposely bring this condition about was furthest from our minds.

We have always enjoyed the kindly feeling, which we have reasons to believe exists, and, therefore, solicit further suggestions.

Very truly yours,

COLLIER'S,
The National Weekly,
*News-Stand Department.*"

CHS/LB

Q. You are now and have been since you have been in the employ of "Collier's Weekly," familiar with the exclusive arrangement which it has with its wholesalers?

A. Our arrangement?

Q. You are familiar with, and have been since you have been with the Collier's people, familiar with this clause 13 of the contract, which the Curtis Publishing Company has with its wholesalers?

A. Yes, I am.

Q. With your experience as a news stand representative of "Collier's Weekly," and your knowledge of this Clause 13 of the Curtis contract, and the reports of your agents, and your own experience, what do you say the effect of Clause 13 of the Curtis contract with wholesalers is upon the circulation of "Collier's Weekly"?

MR. WELCH: I object to that most strenuously as incompetent, irrelevant and immaterial, and as asking the witness to decide and state his decision and opinion on the very issue in this case.

MR. WALSH: That is just what I want him to do.

MR. WELCH: As to what the effect of Clause 13 is on any publisher, whether it be "Collier's Weekly" or not, is a matter for the Commission to decide and for the Court to determine upon competent testimony and evidence of the facts, and not upon the opinion of witnesses.

MR. WALSH: I submit that he is competent to answer.

EXAMINER MOORE: Objection overruled.

MR. WELCH: I take an exception.

THE WITNESS: My personal impression is——

MR. WALSH: I am not asking for your impression.

MR. WELCH: What are you asking for—his opinion?

MR. WALSH: His knowledge and opinion and experience.

MR. WELCH: I object to the statement of the witness's opinion on the same grounds that I gave before.

EXAMINER MOORE: Objection overruled.

MR. WELCH: Exception.

THE WITNESS: My opinion is that this clause referred to in the Curtis contracts acts as a damper, so to speak, on the part of these wholesale agents, to promote the sales of other periodicals.

By MR. WALSH:

Q. I am asking about "Collier's."

A. I should say "Collier's."

Q. Why is that so?

MR. WELCH: I make the same objection.

EXAMINER MOORE: Objection overruled.

MR. WELCH: Exception.

THE WITNESS: These agents have cash bonds with the Curtis Company, and my opinion is that they would think it would be bad business in being too strenuous in promoting the sale of "Collier's."

MR. WELCH: Please read that answer.

(The stenographer repeated the answer.)

By MR. WALSH:

Q. Will you amplify that, Mr. Smith?

MR. WELCH: The same objection I made before.

EXAMINER MOORE: Objection overruled.

MR. WELCH: Exception.

THE WITNESS: I think these wholesalers get the wrong mental effect at work in connection with distributing "Collier's." They really do not do

their best work and put their best efforts behind it on account of this clause. I do not think they go at it with a free will.

MR. WELCH: Read the last question and answer, please.

(The stenographer repeated the last question and answer.)

By MR. WALSH:

Q. Do these wholesalers have a bond for the faithful performance of the contract with the Curtis Publishing Company?

A. I think they have.

MR. WELCH: I object to that. The contract states what the conditions are. He does not know what these wholesalers have or have not. The contract is the best evidence of what it calls for.

MR. WALSH: Do you deny that these wholesalers are required to execute a bond for the faithful performance of their contract?

MR. MILBURN: We do not have to deny it. The contract is the best evidence of what the agency is. If we allow one person to testify as to what his interpretation is, then it opens the door for all kinds of conflicting testimony.

MR. WELCH: We do not want people stating their interpretations of the contract. It is already in evidence. No testimony can change that. We do not want all sorts of conflicting evidence in the record about this contract.

By MR. WALSH:

Q. I will ask him if he knows, in a general way, that these wholesalers are under bond for the faithful performance of the Curtis contract?

MR. WELCH: I object to that on the grounds stated.

By MR. WALSH:

Q. (Continuing.) Or if they are required to put up a cash deposit as security for the faithful performance of their agreement with the Curtis Company?

MR. WELCH: The same objection.

EXAMINER MOORE: Overruled.

MR. WELCH: Exception.

THE WITNESS: I understand that the wholesale agents appointed to handle Curtis publications——

MR. WELCH: I object to what he understands. You asked him for what he knows.

EXAMINER MOORE: State what you know.

MR. WALSH: What I am trying to ascertain is the general method of transacting this kind of business.

MR. WELCH: Why ask a man who is not one or the other of the parties to this contract, anything about it. You have had many agents on the stand who could tell you——

MR. WALSH: I think the best witness as to the operation of this competition is a competitor, and I am endeavoring to elicit on the record the effect of this competition on this competitor, and I think this is the best way to do it. He knows the general situation in the industry.

EXAMINER MOORE: The question does not refer to that, does it?

MR. WALSH: It does refer to that, in that I am trying to ascertain from the witness what the conditions of this competition are, and how these conditions affect him, and the reason for its effect, and what brings about that effect.

EXAMINER MOORE: Read the question as put, Mr. Reporter.

(The stenographer repeated the question as follows):

"I will ask him if he knows, in a general way, that these wholesalers are under bond for the faithful performance of the Curtis contract, or if they are required to put up a cash deposit as security for the faithful performance of their agreement with the Curtis Company?"

EXAMINER MOORE: You may answer the question if you can answer it directly.

THE WITNESS: I understand——

EXAMINER MOORE: No; not what you understand.

THE WITNESS: I can only tell my general experience.

EXAMINER MOORE: Read the question again, Mr. Reporter.

(The stenographer repeated the question.)

By MR. WALSH:

Q. What you know about this and what you have learned in the course of your dealings——

MR. WELCH: I would not coach the witness. I think it is improper to tell the witness what to say.

MR. WALSH: I am laying the groundwork for his answer.

MR. WELCH: The groundwork is generally laid outside of the court, Mr. Walsh.

THE WITNESS: I can only say what I have learned in traveling around, that different agents have told me that they have to put up a cash bond for the performance of the stipulations of the Curtis contract.

By MR. WALSH:

Q. To what extent do these wholesalers who have contracts with the Curtis Publishing Company, push the sale of "Collier's"?

A. Some of them are quite active, but I do not think any of them are as active as they might be or as they could be.

MR. WALSH: That is all.

CROSS-EXAMINATION.

By MR. WELCH:

Q. Mr. Smith, in speaking of what you call wholesale distributors of magazines in the country, you said there were over a thousand that you know of your own knowledge, and only one worth while in each city. How do you know that, of your own knowledge?

A. From my experience in handling this work since 1913.

Q. Have you gone into all the cities and made investigations?

A. Not personally. My men have.

Q. Then your testimony is not of your own knowledge, after making inquiry?

A. Not of my own personal knowledge.

Q. You know what I mean by your own knowledge. I mean knowledge based on your own talks in different cities.

A. Yes, sir.

Q. You never made any personal investigations in any of the cities?

A. In some, but not all.

Q. In what cities?

A. In Detroit, for instance.

Q. What investigation did you make in Detroit?

A. I called on our agent, which is the Solomon News Company, and I think they are handling it as good as could be expected.

Q. What effort did you make in Detroit to find any other wholesaler?

A. I did not make any effort, because I thought

these people were doing it about as well as could be expected.

Q. Do you not know there are other men in Detroit who could handle magazines wholesale?

A. I do not know of any now.

Q. Did you ever make any inquiry in Detroit yourself?

A. I did.

Q. What was that inquiry?

A. I came to the conclusion that the Solomon News Company were doing for us as good as anyone else, and perhaps better.

Q. Did you make any inquiry to find if there was anybody else who could do it except the Solomon News Company in Detroit?

A. I did not, because I was satisfied they were doing it as well as could be done.

Q. Then you did not make any inquiry to find out whether there was any other wholesaler in Detroit who could do it?

A. I did not call on any other.

Q. You did not make any inquiry of anybody else in Detroit?

A. I did not call on any other distributor in Detroit with the idea of getting them to take on "Collier's."

Q. That is what I am trying to find out. Now, can you say there is only one wholesale distributor in Detroit worth while?

A. I think that there is only one first-class distributor.

Q. I asked you how you know there was anyone in Detroit except the Solomon News Company, as you never made any inquiry in Detroit—how can you testify there is only one wholesale distributor in each city worth while? That is what you testified to.

A. I mean one best distributor.

Q. One best distributor?

A. Yes, sir.

Q. You do not know whether there may or may not be many other distributors in these cities?

A. I do not know particularly about Detroit.

Q. Then you want to modify your answer that there is only one person worth while in each city throughout the country? That is the way your testimony stands.

A. I had the other light on the thing—the one best distributor, in my opinion.

Q. In your opinion?

A. Yes, sir.

Q. But there are other distributors in the various cities—wholesale distributors—who are competent to distribute magazines and periodicals?

A. There no doubt are.

Q. There no doubt are?

A. Yes, sir.

Q. "Collier's" does not have any returnable privilege, does it?

A. Yes; to the wholesale agents.

Q. To its wholesale agents?

A. Yes, sir.

Q. Not to the News Company?

A. Not to the American News Company.

Q. Is "Collier's Weekly" returnable by the retailers—that is, the retail dealers—to the wholesalers that you have been talking about?

A. Yes, it is returnable.

Q. Returnable from the retailer to the wholesaler?

A. Yes, sir.

Q. It is?

A. Yes, sir; that is, if the wholesaler takes care of that. If the wholesaler supplies the retailer, he can return his copies to the wholesaler.

Q. To what extent?

A. Full.

Q. Full returnable privilege?

A. Yes, sir.

Q. You, in describing the character of "Collier's Magazine," said that it had news elements——

A. News pictures.

Q. Are there any other features except news pictures—any news articles, et cetera?

A. Special articles.

Q. I mean articles on current events of the day—news articles as distinguished from fiction?

A. I referred to those as special articles.

Q. Are they not news articles—articles on the happenings of the day?

A. In a sense, if you call an article from the battle scenes of France——

Q. That is a happening of the day I should say.

A. We call that a special article.

Q. And weekly comments on doings in Congress and other articles on matters of interest to the public—news of the day?

A. And editorials, yes, sir.

Q. You are familiar with "The Saturday Evening Post"—the character of it?

A. Yes.

Q. That has no articles of that sort?

A. Not to the extent we have.

Q. Does it have any?

A. I think its editorials cover that, and its news pictures which appears with ours.

Q. You were asked about certain correspondence and your relations with the various wholesalers—the Curtis Company's wholesalers. You have on occasions requested the Curtis Company's permission to utilize its distributing system for the benefit of "Collier's Weekly"?

A. My traveling men; yes, sir. They have reported that to me.

MR. WELCH: That is all.

RE-DIRECT EXAMINATION.

By MR. WALSH:

Q. Mr. Smith, in answer to a question by me as to the wholesalers in the different cities, you stated that there is generally only one wholesaler of periodicals in each city. Then, in response to a question by Mr. Welch in reference to the same thing, you said this, in substance: There is, no doubt, more than one wholesaler in each city of the United States who is competent to make wholesale distribution. Now, those two statements appear to be contradictory. Which is correct?

A. It is pretty hard to explain that. For instance, you take a city of fifteen thousand population, of which there are more of them than the cities of larger population—in a city like that there is only one worth-while man. I was talking about Detroit with Mr. Welch. Perhaps in Detroit there is room for two or three distributors. The majority of the towns of 15,000 or 20,000 you could not get two men in there. There is not money enough in the business to have two men working in it.

Q. In your experience, does that situation prevail throughout the country?

A. Yes, sir, I was speaking generally. I did not dwell on Detroit or Kankakee.

EXAMINER MOORE: Is that all?

MR. WALSH: That is all.

EXAMINER MOORE: Have you anything further, Mr. Welch?

MR. WELCH: That is all.

MR. DALY: Now, Mr. Examiner, if agreeable to the other side, we will suspend or take a recess until next Tuesday morning at ten o'clock in Boston, at Room 95 in the Post Office Building, with the consent of the Examiner.

EXAMINER MOORE: Very well; the hearing will be resumed in Boston, Tuesday morning, at ten o'clock, at the address given.

(Whereupon at 2 o'clock P. M. an adjournment was taken to Boston, Mass., Tuesday, December 11, 1917, at 10 A. M.)

---

## FOURTH DAY.

BEFORE THE FEDERAL TRADE COMMISSION.

*Federal Trade Commission*, Complainant,
v.
*Curtis Publishing Company*, Defendant.
} Docket No. 15

Federal Bldg., Boston, Massachusetts,
Tuesday, December 11th, 1917, 11.00 A. M.

Met pursuant to adjournment.

Before ATTORNEY-EXAMINER CHARLES S. MOORE.

APPEARANCES: (Parties as before.)

## PROCEEDINGS.

EXAMINER MOORE: Proceed, gentlemen.

MR. DALY: Before calling the next witness, it may be that, in the examination of some of the witnesses, we may not have letters or other papers which may be necessary to introduce when such a witness is on the stand, and we have asked the respondent for such papers, but in some cases they may not be here, but probably are in Philadelphia. We want it understood on the record

—and Mr. Milburn agrees to this—that in the event these letters and papers, when found, seem to be necessary, they will be admitted upon agreement of counsel.

MR. MILBURN: At any time.

MR. DALY: Is that agreeable, Mr. Milburn?

MR. MILBURN: Yes, sir.

---

HARRY MISHARA was called as a witness on behalf of the Commission, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Will you give your full name and address?

A. Harry Mishara, 144 Harrison Avenue, Boston, Massachusetts.

Q. What is your business?

A. Wholesale distributor.

Q. What do you distribute?

A. I distribute different magazines.

Q. What magazines?

A. I distribute "Pictorial Review," all the Munsey publications, "Mid-Week Times Pictorial," "Argosy," "Railroad Man," "All-Story Weekly," and "Illustrated Record," and "Sporting News."

Q. Do you distribute newspapers?

A. No, sir.

Q. Where do you operate—in what territory do you operate?

A. I operate in Boston and suburban towns.

Q. How long have you been in business?

A. I have been in business for a year and a half.

Q. Covering the same territory?

A. Yes, sir.

Q. Have you, at any time, dealt with the Curtis Publishing Company?

A. Yes, sir.

Q. Under a contract?

A. Yes, sir.

Q. For the purchase of their publications?

A. Yes, sir.

Q. How long did that relation continue?

A. Well, it continued for almost a year—short of a year—I cannot just remember when it was.

Q. Will you look at this contract (handing paper to witness)? Is that the contract you entered into with them?

A. Yes, sir.

Q. We offer this contract in evidence.

(The contract referred to was marked by the stenographer "Commission's Exhibit No. 38," and is as follows):

"DISTRICT AGENCY AGREEMENT.

Form JDA3

WHAT THE DISTRIBUTORS WILL DO

WITNESSETH, that the Distribution hereby covenant and agree: (See supplementary agreements for territory)

*Territory.* 1. To appoint the said Party of the Second Part as District Agent for The Saturday Evening Post, The Ladies' Home Journal and the Country Gentleman, in and for the City of ....., State of Mass., for the period hereinafter described, to commence either with The Saturday Evening Post and The Country Gentleman dated Nov. 25th, 1916, and with The Ladies' Home Journal for the month of January, 1917, or with later issues, at the option of the Distributors (this contract must be accompanied by one of the Distrib-

utors' order-blanks stating the number of copies desired of each of these issues);

*Rates.* 2. To supply the District Agent with copies of The Saturday Evening Post and of The Country Gentleman at two and one-half cents (2½c) each, and of The Ladies' Home Journal at nine and three-quarters cents (9¾c) each, transportation charges prepaid, provided that if the District Agent fail to prove himself entitled to the wholesale rates by wholesaling each publication to sub-agents, and by sending the required sub-agents' sales reports, or if the District Agent fail to maintain a net sale of his quota of any one publication, as required by Clause 8, the Distributors may then charge three cents a copy for The Saturday Evening Post and for The Country Gentleman and eleven cents a copy for The Ladies' Home Journal, or may, at their option, terminate the contract after thirty days' notice and appropriate the cash security;

*Returns.* 3. To give credit to the District Agent, at the price paid, for unsold copies returned in accordance with the regulations governing returns, as stated on the order blanks last issued by the Distributors;

*Shipments.* 4. Of each publication to forward by mail, express or freight, at the option of the Distributors, copies ordered in advance, as hereinafter provided, at a time intended to secure delivery to the District Agent one day before the sale date, provided that the District Agent complies with Clause 10;

*Interest.* 5. To pay the District Agent interest at five per cent. per annum upon the amount of the cash security remitted by him, as shown by Clause 16;

4 5 9

*Cash Refund.* 6. To credit to the account of or to return to the District Agent after his fulfillment of his obligations under this agreement (of which the notice on the reverse side is a part), his cash security; provided, that if the District Agent should fail to do as agreed, then his cash security with any accumulated interest may be appropriated by the Distributors without notice.

WHAT THE DISTRICT AGENT WILL DO

WITNESSETH, that the District Agent hereby covenants and agrees:

*Prepayment.* 7. To remit in advance, either according to the schedule on the printed order-blanks or by deposits sufficient to prepay for a month's supplies, and he hereby deposits with the Distributors $285.00 as the first advance payment;

*Net Sales.* 8. To sell at least 1500 copies of each issue of The Saturday Evening Post, at least 1000 copies of each issue of The Ladies' Home Journal, and at least 100 copies of each issue of The Country Gentleman;

*Sub-Agents.* 9. To supply sub-agents, both boys and dealers, with The Saturday Evening Post and The Country Gentleman at Three Cents a copy for re-sale at FIVE CENTS a copy, and with The Ladies' Home Journal at ELEVEN CENTS a copy for re-sale at FIFTEEN CENTS a copy, and to make deliveries early on the morning of the sale date;

*Premature Sales.* 10. To refrain from displaying, delivering or selling any copies to boys, dealers or retail customers BEFORE the authorized sale date, as specified on the printed order-blank furnished by the Distributors;

*Trespassing.* 11. To refrain from selling any copies in any territory known to be controlled by another agent-under-contract;

*Imprints.* 12. To prevent any firm or person from stamping or pasting any advertising notice upon any page of the District Agent's copies and from inclosing any advertising circular therein, provided that the District Agent or any sub-agent may stamp his name as agent for, or insert circulars intended solely to increase the sales of, the Curtis publications;

*Other Periodicals.* 13. To refrain hereafter from wholesaling to boys ~~or dealers~~ (and from attempting to influence any Curtis agent to sell) any periodicals other than those distributed by The Curtis Publishing Company of Massachusetts and to refrain from furnishing any other publisher or his agent with the names and addresses of any Curtis agents, without first obtaining the approval of the Distributors;

*Reports.* 14. To send to the Distributors, on blanks furnished by the Distributors, not later than directed by the report blanks, reports itemizing the number of copies of each publication sold by each boy, dealer or other sub-agent, or sold at retail by the District Agent or his employees, and to distribute Prize Vouchers regularly to sub-agents, according to instructions from the Distributors, provided that Prize Vouchers shall be given to sub-agents only and are not redeemable by the District Agent nor by his relatives or salaried employees;

*Telegrams.* 15. To pay any collect charges, not exceeding that for a ten word telegram, from the Distributors, concerning any remittance not received by the Distributors, and more than two days late from the District Agent; and to send "collect" to the Distributors a code telegram of a length not exceeding ten words to trace any shipment of 100 or more copies not received on or be-

fore the last day train on the sale date FROM A FULLY PREPAID ORDER BY THE DISTRICT AGENT.

*Cash Security.* 16. To permit the Distributors to retain, throughout the life of this agreement, possession of the $250.00 herewith remitted by the District Agent as cash security for his performance of his several obligations hereunder.

How This Agreement May Be Terminated.

Witnesseth, that it is further agreed and understood by and between the Distributors and the District Agent:

*Termination.* 17. That this contract shall continue in full force and effect on the above terms for at least one year following the date of ratification;

*By Agent.* 18. That the District Agent may withdraw from this contract either at the end of or within the year, and secure the return of his cash security with interest by doing ALL of these Sixty things; (a) By giving the Distributors ~~THIRTY~~ DAYS' NOTICE in writing of his intention to withdraw; ~~(b) by obtaining a successor satisfactory to the Distributors; (c) by obtaining and forwarding to the Distributors the successor's signed contract, deposit and security;~~ and (d) by giving all his right, title, interest and goodwill in the Curtis agency, to the successor, including a written agreement to buy from the successor all copies the District Agent may thereafter order;

*By Distributors.* 19. That the Distributors may terminate this contract without notice, in case of strike, fire, flood, earthquake, change in the postal rate or in the retail price of any one of the three publications; or may at any time terminate it by giving at least thirty days' notice before

cutting off supplies and by returning the security with interest; or may cancel the contract and appropriate the cash security; should the District Agent fail either to sell the quota number given in Clause 8, for any one of the three publications, or fail in any other particular to do as herein agreed;

*Holding Over.* 20. That if the Distributors send and the District Agent accepts, copies of one of the three publications of an issue later than the last within the first year of this agreement, then it shall continue in full force and effect for the SECOND year, upon the same terms and with the same withdrawal conditions as for the first year, and in the event of holding over for a third year, or longer, either may withdraw during or after the third year according to conditions in Clauses 18 and 19, respectively.

IN WITNESS WHEREOF, the Parties to these Presents have hereunto set their hands.

1. THE CURTIS PUBLISHING COMPANY OF MASSACHUSETTS (the Distributors), by R. L. Flanders (President)

2. Harry Mishara, (District Agent)
564 Washington Boston, Mass.

WITNESSES

1. ..... .....

2. ..... .....

NOTICE—If the intending agent is a minor, the signature of his parent or guardian must appear as District Agent.

NOTICE TO THE INTENDING DISTRICT AGENT.

A sound business policy requires that we agree in advance upon terms to which each of us shall adhere.

Before you sign as our representative you are strongly urged to read and have a thorough under-

standing of each clause of this contract and of each requirement on the printed order-blanks in use by the Distributors.

No other than an officer of the Distributors is empowered to modify or alter in any detail the terms of either this contract or the Distributors' order-blank. No traveling representative or other field worker has such authority. It is understood that your acceptance of this contract is given only in consideration of the privileges detailed in the contract, not because of any additional verbal or other promises made by any person whomsoever.

Before you sign, understand that this contract places upon us no obligation to divert to you the orders of any dealers who may now be obtaining copies of the Curtis publications from the American News Company, or any of its Branches; nor of any agents of THE HOME PATTERN COMPANY, or of certain RAILWAY NEWS COMPANIES who may now be obtaining copies directly from The Curtis Publishing Company of Pennsylvania; nor does the contract contemplate our terminating the activities of any subscription representative who may now be soliciting or who may hereafter solicit in your city.

This contract is offered to you by the Distributors only because they believe Y-O-U are the right man for the place. It is understood that by accepting the contract you signify your intention of devoting your own time and personal attention to the management of the agency and that you will not lease or sublet to another in any way except as stipulated in the contract. Our ratification of the proposed contract will not make the agency yours to barter and sell without our sanction. Our ratification of the proposed agreement will give you only the rights specified in the contract—no more.

This contract will become binding upon the Distributors when received and ratified by the Distributors' President, not before.

THE CURTIS PUBLISHING COMPANY OF MASSACHUSETTS.

L. G. Jones, President

BOSTON, MASSACHUSETTS.

---

ENDORSED: ARTICLES OF AGREEMENT. Made this .....day of.... 19.... between The Curtis Publishing Company, of Massachusetts, Party of the First Part, hereinafter referred to as the Distributors, and Harry Mishara, City Boston State Mass., Party of the Second Part, hereinafter referred to as the District Agent. (Stamped) Rec'd NOV 27, 1916."

By MR. DALY:

Q. Do you still operate under that contract?

A. No, sir.

Q. Why?

A. The fact I took "Pictorial Review," I could not any longer continue to be a Curtis agent.

MR. MILBURN: I object to that. That is purely a conclusion of the witness. I move that the answer be stricken out.

MR. DALY: Strike out the answer, although I do not see anything particularly wrong with it. I am trying to hurry along these proceedings.

By MR. DALY:

Q. You are familiar with Section 13 of that contract?

A. Yes, sir.

Q. Why did you quit handling the Curtis publications?

A. Well, I did not quit. I would continue handling

the Curtis publications, but Mr. Flanders came down to see me and told me it was against the policy of their house for any Curtis agent to continue their agency if he took the "Pictorial Review," and I told him I intended to take the "Pictorial Review," and as a result of continuing the "Pictorial Review," I lost the Curtis agency.

MR. MILBURN: What was the date of that conversation?

THE WITNESS: That was when the "Pictorial Review" put its first issue out independently. That week I lost the "Post." The "Pictorial" went out on the 10th and I lost the Curtis agency on the 7th of that week.

By MR. DALY:

Q. That was April, 1917?

A. Yes, sir.

Q. Last April?

A. Yes, sir.

Q. Now, you are not handling the Curtis papers, are you?

A. Now?

Q. Yes.

A. No, sir.

Q. Now, in what territory did you handle the Curtis publications?

A. I handled the Curtis publications and others—there is a slip there that specifies it. I will read it, if you want me to.

Q. You can refresh your memory from that, if you want to.

A. I handled the Curtis publications in Cambridge, Charlestown, Somerville, and the following Boston wards: Wards Nos. 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 25 and 26.

Q. Can you describe what part of the city these wards cover?

A. Yes, sir; they cover all of Boston on the other side of Massachusetts Avenue, which was the boundary line. It covers all of Roxbury, Dorchester, Mattapan and part of Milton, Jamaica Plain and Brookline.

Q. How many "Reviews" do you handle in that community?

A. Including Boston, I handle over six thousand.

Q. Per month, of course?

A. Yes, sir.

Q. What equipment have you for putting that paper out to your customers?

A. I have four machines.

Q. And you deliver your "Reviews" to the retailer by that system—is that correct?

A. Yes, sir.

Q. Now, how many wholesalers are there besides you in that territory?

A. Well, in that territory there are only two wholesalers, the New England News Company——

Q. Who are the New England News Company?

A. A branch of the American News Company.

Q. And who else?

A. Meyer Reiser.

Q. Do they cover that territory?

A. Both——

Q. Does he cover that territory?

A. As far as I know.

Q. In delivering these magazines to your retailers, did you make any charge to them for that delivery?

A. No, sir.

Q. Do you know whether the American News Company makes a charge to the retailers for those deliveries?

A. Yes, sir, they do.

Q. Do you deal with the American News Company?

A. You mean in the wholesale end of it?

Q. Yes.

A. No, sir.

Q. Do you deal with the New England News Company?

A. In the wholesale end of it?

Q. Yes.

A. No, sir.

Q. Now, in this contract which was admitted in evidence here, it appears that the word "dealers" was stricken out in Section 13?

A. Yes, sir.

Q. Prior to the time or at the time you were signing?

A. Yes, sir.

Q. Why was that stricken out?

A. I did not want to be restrained from wholesaling to dealers, because I established that dealer business myself, and I would not sign a contract that they could restrain me from selling to dealers any other magazines that I took up. As long as I did not touch their boys they were satisfied, and they struck that word out.

Q. To satisfy you?

A. Yes, sir.

Q. In saying they were satisfied, that means at the time the contract was signed they were satisfied with that arrangement?

A. Yes, sir.

Q. Did you or not receive a notice or letter from the Curtis Publishing Company in reference to this contract?

A. Yes, sir.

Q. Is that the letter (handing paper to witness)?

A. Yes, sir.

MR. DALY: We offer this letter in evidence.

(The letter referred to was received in evidence and thereupon marked by the stenographer,

"Commission's Exhibit No. 39," and the same is as follows):

COMMISSION'S EXHIBIT No. 39.

(On letterhead of Curtis Publishing Company.)

"Feb. 5, 1917.

Mr. Harry Michara,
Boston, Massachusetts.

Dear Mr. Michara:

The plans of another publisher and his agent (new company) lead us to remind you of Clause 13 of your Curtis contract. The purpose and effect of that clause are as follows:

> *With respect to periodicals not previously wholesaled by you, you definitely agreed to refrain from wholesaling to boys or dealers any periodicals not our own without first obtaining our approval.*

Of course you will be very careful to make with the other publisher or his agent (news company) no arrangement contrary to your Curtis contract.

In justice to you and to avoid any situation which would be embarrassing to both you and us, we feel in duty bound to say that your arrangements with us may be continued only upon the basis stated.

Our relations have been so very pleasant that we hope to be able to supply and serve you indefinitely hereafter.

This is a general letter to all our District Agents. Please attach it to your Curtis contract for future reference.

Very truly yours,

THE CURTIS PUBLISHING COMPANY.

(Signed) M. E. Douglas,

MED *Manager Sales Division.*"

By MR. DALY:

Q. How many of these retail dealers did you supply under this contract, if you know?

A. They would number about four hundred or more.

Q. Do you know—if you do not know, do not state—how many the New England News Company supplies in that same territory, approximately?

A. About 25 per cent. less.

MR. DALY: That is all

EXAMINER MOORE: Cross-examine.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. I understand you have been in this wholesale magazine business for about a year and a half—is that correct?

A. In Boston, yes, sir.

Q. You were doing what, before?

A. In the retail business.

Q. When you started that business, what publications did you start with?

A. The Munsey publications.

Q. Then you went on with that and afterwards got the Curtis agency for a while—is that correct?

A. I do not know whether Curtis was the next or not, but I may have taken in the "Mid-Week Pictorial."

Q. I did not mean that. Your Curtis contract was November 25, 1916—is that correct?

A. Yes, sir.

Q. How did you distribute the Curtis publications?

A. I beg pardon?

Q. How did you distribute the Curtis publications?

A. Well, I had an equipment, and I used to deliver it with the same equipment.

Q. And you delivered it to retail dealers and also to boys, did you not?

A. Yes, sir.

Q. And they were boys confined to the service of the Curtis papers—is that correct?

A. Not all the boys; just the home boys.

Q. What would you call them?

A. I had some boys that I had on my list previous to that.

Q. You had some boys of your own and they were occupied in handling other papers?

A. They were boys who sold on the street.

Q. And you had a staff of boys in charge of the Curtis distribution?

A. When the Curtis boys came, they were boys I did not deal with.

Q. Who supplied those boys—the Curtis people got them, did they not?

A. Yes, sir; they gave me a list of names.

Q. And you made a report of what they did and sent it to the Curtis Company under your contract?

A. Yes, sir.

Q. Your relations went on until Mr. Flanders came to see you?

A. Yes, sir.

Q. When was that?

A. Just about a week——

Q. About March, 1917, was it not?

A. When the first issue of "Pictorial" came out—about a week before.

Q. And you had a conversation with him?

A. Yes, sir; I had a conversation with him.

Q. Did you give us all of that conversation? You said that he told you that a notice to discontinue the contract would be served on you, because you were handling "Pictorials"—is that correct?

A. He asked me if I was taking "Pictorial Review," and I said I was.

Q. Did he give you any other reasons for discontinuing the arrangement?

A. Not that I know of.

Q. Do you remember anything of premature deliveries by you?

A. No, sir.

Q. Or general dissatisfaction with the service you rendered?

A. No, sir.

Q. He did not say that?

A. No, sir.

Q. Does the Hotel and Railroad News Company wholesale in your district?

A. No, sir.

Q. Do you know of such a concern?

A. Yes, sir.

Q. Do they wholesale in your district?

A. Not magazines—newspapers.

Q. Do you do any business with the American News Company direct?

A. No, sir.

Q. Do you do any business with the New England News Company?

A. In the wholesale end?

Q. In any end.

A. I have a retail stand and they deliver magazines to my stand. That is all.

Q. For wholesale purposes you never have purchased, in fact, magazines from the New England Company?

A. No, sir.

Q. Anybody can buy their copies from the New England News Company who desire to buy them?

A. Yes, sir.

MR. MILBURN: That is all.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. You have spoken about the Curtis boys and your boys in selling the Curtis papers. Did you or not use your boys for that purpose as well as the Curtis boys?

A. Yes, sir.

Q. You drew no line as to that?

A. I beg pardon?

Q. You drew no line as to that—you did not draw any line as to the boys that handled the Curtis papers?

A. I tried to produce the best results I could.

Q. And you used your whole equipment of boys?

A. Yes, sir.

Q. Did the Curtis boys—so-called Curtis boys, handle anything else besides the Curtis publications?

A. Some boys did.

Q. What would they handle?

A. They would handle newspaper routes.

Q. Did they handle any magazines?

A. Yes, sir; there are some boys who handle other magazines.

Q. Some of their co-called Curtis boys?

A. Yes, sir.

Q. Do you know anything about the length of service of a Curtis boy who was in your employ—how long he stayed with you?

A. I do not understand——

Q. What was the turn-over among the so-called Curtis boys?

A. A great many of them stayed as long as I was distributor, and a great many would drop off and some new ones come on. They would change.

Q. Change rapidly or not?

A. Not very rapidly. I did not have a great many boys.

Q. How many did you have?

A. I should judge about 75—50 to 75.

Q. You mean in all?

A. Yes, sir.

Q. How many of these so-called Curtis boys—how many did they turn over?

A. The list they turned over to me is what I mean. I had about 50 boys from what they turned over to me.

Q. And in all you had about 75 boys?

A. Yes, sir; about 75 boys.

MR. DALY: That is all.

RE-CROSS-EXAMINATION.

By MR. MILBURN:

Q. In dealing with these Curtis boys, you sold them the publications, and they would go out and sell them to the general public?

A. Yes, sir.

Q. Now, you did handle the first issue of "Pictorial Review," did you not?

A. Yes, sir.

Q. Did you or did you not sell any copies of "Pictorial" to these Curtis boys?

A. Well, I only sold copies of the "Pictorial Review" to those boys that asked for them.

Q. But you did sell to them?

A. Those boys I sold to always sold all kinds of magazines, and had newspaper routes.

Q. You sold some of these boys we are talking about some copies of the first issue of "Pictorial"?

A. I do not know which boys you mean.

Q. The Curtis boys.

A. They were not Curtis boys.

Q. You sold some of the boys on this list some copies of the first issue of "Pictorial Review"?

A. I had some of the boys before I got the Curtis list.

Q. I ask that the witness answer yes or no. Did you sell any copies of the first issue of the "Pictorial Review" to any boy or boys who were on the list furnished you by the Curtis Company?

A. Yes, sir, I did.

Q. When your agency with the Curtis people was terminated, they took back this list of boys and took them over, did they not?

A. Yes, sir.

By MR. DALY:

Q. I think you have answered this, but will you just state again to what boys you sold the "Pictorial Review"?

A. I sold to those boys that had newspaper routes and magazine routes. They used to handle all kinds of magazines and newspapers, that their customers would ask for. Only to the boys that asked for the "Pictorial Review," I sold them.

MR. DALY: That is all.

---

MAX SILVERSTEIN was called as a witness on behalf of the Commission, and having been duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Please give your full name and address.

A. Max Silverstein, 11 Pine Street, Providence, Rhode Island.

Q. In what business are you engaged?

A. Newspapers and magazines, distributing wholesale.

Q. How long have you been so engaged?

A. Oh, about twenty-five years.

MR. MILBURN: I did not hear that. Will the

stenographer please read this witness's testimony to this point.

(The stenographer repeated the above testimony.)

By Mr. Daly:

Q. What papers did you handle in the fall of 1916 and then on?

A. Do you want the names of all of the papers?

Q. Give me the names of some of them.

A. The "Providence Tribune," "Boston American," "New York American," Christian Science paper, "The Monitor."

Q. What magazines did you handle?

A. Curtis magazines, Hearst's magazines, Munsey magazines, the "Literary Digest" and "Pearson's."

Q. How long have you handled the Curtis publications?

A. Oh, probably eight years or so—nine. I do not know exactly.

Q. Have you a contract with them?

A. Yes, sir.

Q. Are you familiar with the terms of that contract?

A. Yes, sir.

Q. Has it the restriction in it that we are talking about in this case?

A. Yes, sir.

Q. Prior to the time that you made that contract with the Curtis Company, what did you handle?

A. Newspapers.

Q. Any magazines?

A. No.

Q. And you had handled newspapers, as I understand it?

A. Yes, sir.

Q. The remainder of the time you had been in business prior to that contract?

A. Yes, sir.

Q. At wholesale?

A. Yes, sir.

Q. Now, as such a wholesaler, what do you do in Providence—how do you distribute your publications?

A. I make regular deliveries to the newsboys and newsstands and deliver magazines.

Q. What equipment have you to do that work?

A. Automobiles, and in some cases, horses and wagons.

Q. Were you ever asked to handle the "Pictorial Review"?

A. Yes, sir.

Q. When?

A. Why, I think the first time they called was about two years ago. One of their representatives called on me—about a year and a half ago or somewhere along there.

Q. Did you take it on at that time?

A. No, sir.

Q. Why?

A. I did not like the proposition.

Q. What was the proposition?

A. They wanted me to handle it in a sort of limited way.

Q. Describe it.

A. Well, as I understand, the offer was to just start with the boys—the boy end of the business.

Q. What other wholesalers are there in that city?

A. There is the Rhode Island News Company.

Q. Is that a branch of the American News Company?

A. Yes, sir.

Q. Did the American News Company cover that

situation that the "Pictorial Review" wanted you to cover?

A. No, sir.

Q. Did you take on the paper?

A. No, sir.

Q. Were you ever afterwards asked to handle that paper—the "Pictorial Review," I am speaking about now.

A. Yes, sir.

Q. When was that?

A. It may have been eight or nine months ago.

Q. Did you buy that magazine then or not, or do you take it on with your other magazines?

A. I talked with one of the representatives, and they came with a new offer and the offer looked agreeable.

Q. Then what happened?

A. Then my attention was called to our pleasant relations with the Curtis people.

Q. By whom—who called your attention to that?

A. I had a letter.

Q. Did you receive a letter from the Curtis Company?

A. Yes, sir.

Q. Will you look at that paper (handing paper to witness)?

A. Yes, sir.

Q. Is that the letter you received?

A. Yes, sir.

MR. DALY: We offer that letter in evidence.

(The letter was thereupon received in evidence and marked by the stenographer "Commission's Exhibit No. 40," and is as follows):

COMMISSION'S EXHIBIT No. 40.

(On letterhead Curtis Publishing Company)

"Feb. 5, 1917.

Mr. Max Silverstein,
Providence, Rhode Island.

Dear Mr. Silverstein:

The plans of another publisher and his agent (news company) lead us to remind you of Clause 13 of your Curtis contract. The purpose and effect of that clause are as follows:

WITH RESPECT TO PERIODICALS NOT PREVIOUSLY WHOLESALED BY YOU, YOU DEFINITELY AGREED TO REFRAIN FROM WHOLESALING TO BOYS OR DEALERS ANY PERIODICALS NOT OUR OWN WITHOUT FIRST OBTAINING OUR APPROVAL.

Of course you will be very careful to make with the other publisher or his agent (news company) no arrangement contrary to your Curtis contract.

In justice to you and to avoid any situation which would be embarrassing to both you and us, we feel in duty bound to say that your arrangements with us may be continued only upon the basis stated.

Our relations have been so very pleasant that we hope to be able to supply and serve you indefinitely hereafter.

This is a general letter to all of our District Agents. Please attach it to your Curtis contract for future reference.

Very truly yours,

THE CURTIS PUBLISHING COMPANY,
(Signed) M. E. DOUGLAS,
*Manager Sales Division.*"

MED.

Q. After receiving this notice with reference to this contract, what did you do about the contract and about taking on the "Pictorial Review"?

A. Well, we were willing to discontinue the "Pictorial Review." We made some sort of a third arrangement with the Pictorial Review Company in Pawtucket.

Q. Did you handle the "Pictorial Review" after receiving your notice—did you agree to handle it with the Pictorial Review Company?

A. No, sir.

Q. What do you mean by "we made some arrangement"?

A. Well, the copies—some of them were distributed through the "Pictorial's" Pawtucket agent.

Q. With your sanction?

A. I was not against it.

Q. And whatever circulation of the "Pictorial Review" was obtained by your company in that territory, was made through that avenue?

A. Yes, sir.

Q. Who is the Pawtucket agent?

A. Morris Espo.

Q. Whose equipment did he use to distribute it?

A. He did not use any. It was transferred to one of the boys who worked with me, and in that way, they made a sort of part delivery.

Q. I am not clear as to what happened after you got that notice. Were you or not told by the Curtis Publishing Company, or was your attention or not called to this contract by the Curtis Publishing Company?

A. Yes, sir; it was.

Q. Did you go to Philadelphia to see the Curtis people to get their permission or not?

A. No, sir.

Q. You wrote the "Pictorial Review," did you not, in reference to handling their publication on one occasion?

A. I believe so; yes, sir.

Q. Will you look at this letter (handing paper to witness)?

A. Yes, sir.

Q. That is your letter that you wrote to them?

A. Yes, sir.

MR. DALY: We offer this letter in evidence, if the Examiner please.

(The letter referred to was thereupon received in evidence and marked by the stenographer "Commission's Exhibit No. 41," and the same is as follows):

COMMISSION'S EXHIBIT No. 41.

(Letterhead of M. Silverstein—Publisher's Agent)

"Providence, R. I., Feb. 2, 1917.

Mr. Mackinnon, Cir. Director,
The Pictorial Review Co.,
216 226 West 39th Street, New York City.

Dear Mr. MacKinnon:

Yours in reference to my distributing your publication in this territory at hand. In reply wish to inform you that the 10% return privilege or the 10% cash discount should be eliminated until after I have worked up a first class business with your magazine.

I realize that the white paper situation is causing the publishers considerable trouble, but in view of the fact that your proposition is entirely new I believe it would be a fair proposition to allow full returns so that I would have a leeway in building up some business here.

I firmly believe that after a good try-out the Pictorial Review would have a first class circulation in this territory.

Hoping to hear further from you in reference to this matter, I remain

Very truly yours,

(Signed) M. SILVERSTEIN."

By MR. DALY:

Q. Now, I call your attention to another letter, dated February 17, 1917, that you wrote to Mr. Mackinnon, Circulation Manager of the "Pictorial Review." Will you look at this letter?

A. Yes, sir.

Q. You wrote that letter?

A. Yes, sir.

MR. DALY: We offer this letter in evidence.

(The letter referred to was thereupon received in evidence and marked by the stenographer "Commission's Exhibit No. 42," and the same is as follows):

COMMISSION'S EXHIBIT No. 42.

(Letterhead of M. Silverstein—Publisher's Agent)

"Providence, R. I., Feb. 17, 1917.

Mr. B. A. MacKinion,
Cir. Director, Pictorial Review,
226 West 39th St., New York City.

Dear Mr. MacKinion:

Immediately upon your notice reaching me regarding Pictorial Review, I made a canvass of the dealers and results obtained are quite satisfactory. Within a week or so, the entire territory will be canvassed and then you can expect a first-class order from me. Pictorial Review now

enjoys a high rank sale here and with the additional push that will be put in the sales end, my opinion is, that this magazine will show a large increase within a short period.

Wishing you Success in your new undertaking of Distribution, I wish to remain,

Yours very truly,

(Signed) M. SILVERSTEIN."

By MR. DALY:

Q. Will you look at this letter of February 21, 1917, that was written to you by the Curtis Publishing Company (handing paper to witness)?

A. Yes, sir.

Q. Did you receive that letter?

A. Yes, sir.

MR. MILBURN: We have no objection.

MR. DALY: We offer this letter in evidence.

(The letter referred to was thereupon received in evidence and marked by the stenographer "Commission's Exhibit No. 43," and the same is as follows):

COMMISSION'S EXHIBIT No. 43.

(On letterhead of The Curtis Publishing Company)

"February 21, 1917.

Mr. Max Silverstein,
11 Pine Street,
Providence, Rhode Island.

Dear Mr. Silverstein:

Strange stories seem to be circulating these days. For example, our Washington District Agent, just called us on the long-distance telephone to report a conversation he had just had with a representative of the Pictorial Review.

As we understood the story, the representative told our Washington District Agent that you have taken the Pictorial Review Agency, and used the argument that since the Curtis Company has permitted Mr. Silverstein to take it they cannot very well do otherwise than permit the Washington District Agent to do so.

Now, I do not believe that you have made any arrangements with the Pictorial Review and I feel that you ought to know the use being made of your name in this connection.

With kind personal regards,

Very truly yours,

THE CURTIS PUBLISHING COMPANY,

(Signed) C. L. GROSJEAN,

Dictated by MED SM *District Manager.*

(Signed) M. E. DOUGLAS."

By MR. DALY:

Q. As a matter of fact, you were handling the "Pictorial Review" at that time, or had you been handling it prior to that?

A. I should say no; there were three or four parties there involved——

Q. You testified you were handling it through the Pawtucket Agency?

A. Yes, sir.

Q. Had you ever handled it any other time?

A. No, sir.

Q. Prior to that?

A. No, sir.

Q. Nor afterwards?

A. No, sir.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. Through Mr. Esbo and this boy and different channels, the "Pictorial" was so far away from you, when it got out you did not know it was out?

MR. DALY: What was that question?

(The stenographer repeated the question.)

THE WITNESS: That is about the meaning of it.

By MR. MILBURN:

Q. Do you remember that at the time of the taking on of the Curtis contract, you were a wholesaler and retailer of newspapers?

A. Yes, sir.

Q. You were never in the wholesaling of magazines before?

A. No, sir.

Q. That was the start of your wholesaling magazines?

A. Practically; yes, sir.

Q. After having turned down the original negotiations with the "Pictorial Review," you again, some time in the early part of 1917, were in communication with them. That is the date these letters bear—early in February you had some negotiations with Mr. Mackinnon about taking on the "Pictorial"?

A. Yes, sir; that was before they started.

Q. And when that proposition was made to you, you say in your letter to Mr. Mackinnon, dated February 2, 1917:

> "In reply wish to inform you that the 10 per cent. return privilege or the 10 per cent. cash discount should be eliminated until after I have worked up a first class business with your magazine."

A. That was before I started.

Q. If you did take over the magazine, it would be on a ten per cent. return basis?

A. It says here that the ten per cent. return or the ten per cent. cash discount should be eliminated; in other words, full returns.

Q. Refreshing your recollection from that letter, you know that the return proposition was a ten per cent. proposition, was it not?

A. Yes, sir; their proposition was ten per cent.

Q. In operating the Curtis contract, how do you distribute their magazines?

A. Well, I make deliveries to the news dealers and deliver to the boys' homes.

Q. The homes of the boys who buy magazines from you and distribute to the public?

A. Yes, sir.

Q. How many boys have you of that character?

A. We probably deliver to about sixty, or seventy-five boys.

Q. Did you get those boys in conjunction with the Curtis Publishing Company through advertising and different channels——

MR. DALY: Now, wait; that looks to me like one of these conclusions that we heard counsel talk so much about in New York.

MR. MILBURN: I asked if he did that.

MR. DALY: I object to that.

MR. MILBURN: Please read the question.

(The stenographer repeated the question.)

MR. DALY: I withdraw the objection.

THE WITNESS: Yes, sir.

By MR. MILBURN:

Q. You had to make a report each week as to what each boy sold, as part of your contract with the Curtis Publishing Company?

A. Yes, sir.

Q. Under this contract, are there now certain additional premiums made you for other work than the mere sale of the magazines?

A. Yes, sir.

Q. What are they?

A. They are bonuses on getting new boys, if they sell so many copies. If they sell so many copies, I would get additional money.

Q. You also got certain payments for instructing and coaching boys in the sale of papers, did you not?

A. Yes, sir.

Q. Do you know J. L. Seddof?

A. Yes, sir.

Q. Who is he?

A. I believe he had the agency before I took it up. I think he is now in the Army.

MR. DALY: Will learned counsel state what he wants before he puts the question? I do not see the relevancy of this.

MR. MILBURN: If he is in the Army now, I will withdraw the question. That is all.

MR. DALY: Mr. Examiner, there is one letter I overlooked, and if learned counsel will agree, I will put it in now.

MR. MILBURN: Yes, sir.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. Is that a letter you wrote to the Curtis Publishing Company (exhibiting letter to witness)?

A. Yes, sir.

Q. What is the date of that letter?

A. May 8, 1917.

MR. DALY: I offer that letter in evidence.

(The letter referred to was thereupon received in evidence and marked by the stenographer "Commission's Exhibit No. 44," and the same is as follows):

COMMISSION'S EXHIBIT No. 44.

(On letterhead of M. Silverstein—Publisher's Agent)

"Providence, R. I., May 8th, 1917.

Mr. M. E. Douglas,
Sales manager, Curtis Pub. Co.,
Philadelphia, Pa.

Dear Mr. Douglas:

I understand that your company no longer requests its agents not to sell Pictorial Review. As I am in a position to take over this publication without interfering in the least with the Curtis Group, I thought it advisable to get in touch with you before taking any action in this matter. Furthermore, I can assure you, that so far as this territory is concerned, the sales will be developed entirely to the newsstands. On this account, I will be in a position to increase my order on the Journals through the newsdealers. Hoping to hear further from you regarding this matter, I wish to remain,

Yours very truly,
(Signed) M. SILVERSTEIN."

By MR. DALY:

Q. You say you were paid bonuses for looking after the boys?

A. The boys helped to increase the sales.

Q. But you were actually paid for coaching the boys?

A. Well, that would all depend on the——

Q. How are you paid by the Curtis Publishing Company, and how much?

A. Of course, the more copies the boy would sell, the more profit he was.

Q. I know that, but I want to know the amount that was paid you.

A. I cannot say just what the amount was, but we got bonuses.

Q. When were you paid anything for that service last?

A. I cannot tell you.

Q. Were you paid anything last month?

A. I do not watch those things that close.

Q. Were you paid anything within six months?

A. I should say yes.

Q. Can not you remember what that was?

A. A small amount—3, 4, 5 or 1 or 2 dollars, depending on how far the boy would advance.

Q. In all, during your relations with the Curtis Publishing Company, under this contract, give the approximate amount, as to how much you have been paid by that company.

A. It is not a very large amount.

Q. Well, give me about what it is.

A. It may average possibly $25 a year, or something of that sort.

Q. How many boys do you testify that the Curtis Publishing Company turned over to you during that period?

A. Well, there may have been two or three hundred. They come and stay a little while and stop, and new ones come along.

Q. How long, on an average, do you think they stay with you?

A. Some will stay four or five years and others stay a week.

Q. About how many of them quit after a week?

A. Some of them do.

Q. About what percentage of them do that, if you can arrive at it—just give us an approximation?

A. A very small percentage stop in one week.

Q. Would a large percentage of them stay a year, for instance?

A. Yes, sir.

Q. You think that is correct?

A. Yes, sir.

Q. Do you or not distribute any papers or magazines through these same boys?

A. Yes, sir.

Q. As a matter of fact, you put everything through these boys, as well as the "Saturday Evening Post" and "Ladies' Home Journal"?

A. That seemed to be the big thing with them—with the Curtis——

Q. But you did use them for other things?

A. That was left to them. If they wanted other things, I would not refuse to furnish them.

Q. Did you furnish them other magazines as well?

A. A few of them; yes, sir.

Q. Did any ask for papers?

A. Yes; quite a number of them were regular paper boys.

Q. I am not sure that you testified to this—how many of them are your boys as distinguished from the boys furnished by the Curtis Publishing Company. Have you boys of your own as well?

A. Of course, those boys are everybody's boys. They come to me because I have certain publications they want, and they may go to other people and get other publications that I do not have.

Q. They handle not only from you, but go to other wholesalers as well—is that correct?

A. Yes, some of them do.

Q. Any number of them do that?

A. A small percentage of them.

Q. Can you tell me how many of these boys have stayed with you for a period of a year, out of the number you have testified about?

A. I should say about seventy-five per cent. of them would stay a year.

Q. Now, as to instructing and coaching these boys, what do you do towards it?

A. I get them together occasionally and talk with them.

Q. Do the Curtis people do a great deal of that work or do you do all of it?

A. They do a lot of it.

Q. As a matter of fact, they do most of it, do they not?

A. They do more than we do, I guess.

Q. How do they do that?

A. Well, they mail the boys cards or letters asking the boys to come down to certain places and meet the representatives.

Q. And the representatives speak to them and instruct them?

A. Yes; get them together and show them how to sell.

Q. Traveling men for the Curtis Company or their representatives?

A. Yes, sir.

RE-CROSS-EXAMINATION.

By MR. MILBURN:

Q. They have a regular league, of course, of Curtis boys?

A. Yes, sir.

MR. DALY: I object, unless he knows.

By Mr. Milburn:

Q. Do you know they have?

A. Yes, sir.

Q. You spoke of recompense you got from the Curtis Company in addition to your sale of papers. You stated you got a dollar for every new boy you got—is that correct?

A. Well, there is an added bonus—different bonuses——

Mr. Daly: I object to that. I do not think he testified to that.

By Mr. Milburn:

Q. What do you get—I do not want to misstate the evidence—for getting new boys?

A. If they stay a while and sell a certain number of copies, we get a bonus, whatever bonus they happen to offer at that time.

Q. Do you get any bonuses still for getting new boys?

A. I have on different occasions.

Q. If a boy is promoted in the league, you get an additional bonus sum?

A. Yes, sir.

Q. And if promoted to be an expert salesman, you get an additional bonus?

A. Yes, sir.

Q. And if promoted to master salesman, you get another bonus?

A. Yes, sir.

Q. How much is the last bonus, if you remember?

A. Five dollars, I believe it is.

Q. Do you know what the figure is for the next to the highest?

A. I believe that is five dollars, too.

Q. So, as you bring these boys along and they advance, you make a profit?

A. Yes; besides making a profit on the sales.

By Mr. Daly:

Q. How many of these boys, since you have been operating them for the Curtis Company, have become master salesmen—how many cases of that?

A. Seven or eight of them, I should say.

Q. During the whole period you have been with the Curtis Publishing Company?

A. That is only—of course, I cannot remember just what—recently there have been quite a number; that is, seven or eight of them.

Q. When did the first one receive that title, as you recollect?

A. I cannot remember.

Q. Was it a year ago or more recently?

A. I cannot remember just when it was.

Q. Have you not any idea at all as to when these master salesmen—it is a matter that occurs in your business, and it seems to me you could give me some idea of this; I do not mean the exact date, but the year and month.

A. I guess it is within the last year.

Q. As a matter of fact, all these promotions have taken place in the last year?

A. No, sir.

Q. How many prior?

A. There is promotion work all the time.

Q. I am speaking of master salesmen—how many prior to this last year?

A. I do not remember that there were any.

Q. There were not any, were there?

A. I am not sure. I would have to look it up.

Q. Of the expert salesmen, how many of them have there been that you have testified about here?

A. I should say about seven or eight of them.

Q. When did they receive those promotions—about when?

A. All within the last year, I should say.

Q. All these cases you have spoken about have occurred within the last year—is that correct—where a boy has been promoted to these different titles?

A. Within the last year; yes, sir.

Q. Now, will you explain whether or not any of these expert boys were graded up to be master salesmen within the last year—I am trying to find out about the system you are speaking about.

A. All the boys who are expert salesmen, I should say, have reached the top.

Q. As master salesman? Is that what you call him?

A. Yes, sir.

Q. Are they the same boys who were made expert salesmen, who went up to be master salesmen?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. How do you decide when these boys are equipped to be master salesmen, for instance?

A. By their sales.

Q. The size of their sales governs that—is that correct?

A. Yes, sir.

MR. DALY: That is all.

MR. MILBURN: That is all.

---

ROY M. WOODSTOCK, called as a witness on behalf of the Commission, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Please give your full name and address.

A. Roy M. Woodstock, 192 State Street, Springfield, Massachusetts.

Q. What is your business, Mr. Woodstock?

A. Retail cigar and news dealer; also represent the Curtis Publishing Company.

Q. What other publications do you handle?

A. "The Etude" and "Suburb."

Q. Any newspapers?

A. No, sir; not now.

Q. When did you quit handling newspapers?

A. July 1st, 1916.

Q. When did you begin handling them?

A. February 13, 1910.

Q. Have you a contract with the Curtis Publishing Company about their publications?

A. I have.

Q. How long have you had that?

A. Since September 19, 1914.

Q. And it has the usual restrictive clause that we are speaking about in this case, in it?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. Were you ever approached by a representative of the Pictorial Review Company for the purpose of inducing you to handle their paper?

A. No, sir.

Q. You do not handle the "Review," do you?

A. No, sir.

Q. Did you ever make any effort to secure the "Pictorial Review" for your customers?

A. Yes, sir.

Q. You did?

A. Yes, sir.

Q. Why did you not handle it?

A. I might say I was not approached by a representative. He wrote me.

Q. That is the same thing.

A. I thought you might misconstrue that.
Q. Did you take it on?
A. Their first proposition I gave them an order.
Q. How large an order was that?
A. One hundred copies.
Q. When was that?
A. About the first of February, 1917.
Q. Did you receive the copies?
A. No, sir.
Q. Why?
A. They were misdirected.
Q. Did you afterwards take any more copies?
A. No, sir.
Q. Why not?
A. Because I gave up the proposition.
Q. Why did you give it up?
A. Because I preferred to stay with the Curtis Publishing Company, and did not care to infringe on my contract.
Q. Will you look at this letter I show you, dated February 5, 1917?
A. Yes, sir.
Q. Did you receive that letter?
A. Yes, sir.
Q. Will you look also at another letter dated February 15, 1917, from the Curtis Publishing Company?
A. Yes, sir.
Q. Did you receive that letter?
A. Yes, sir.

MR. DALY: We offer these letters in evidence.

(The letters referred to were thereupon received in evidence and marked by the stenographer, "Commission's Exhibits Nos. 45 and 46," respectively, and the same are as follows):

COMMISSION'S EXHIBIT No. 45.

(Letterhead of Curtis Publishing Company.)

"Feb. 5, 1917.

Mr. Roy M. Woodstock,
Springfield, Mass.

Dear Mr. Woodstock:

The plans of another publisher and his agent (news company) lead us to remind you of Clause 13 of your Curtis contract. The purpose and effect of that clause are as follows:

> *With respect to periodicals not previously wholesaled by you, you definitely agreed to refrain from wholesaling to boys or dealers any periodicals not our own without first obtaining our approval.*

Of course you will be very careful to make with the other publisher or his agent (news company) no arrangement contrary to your Curtis contract.

In justice to you and to avoid any situation which would be embarrassing to both you and us, we feel in duty bound to say that your arrangements with us may be continued only upon the basis stated.

Our relations have been so very pleasant that we hope to be able to supply and serve you indefinitely hereafter.

This is a general letter to all of our District Agents. Please attach it to your Curtis contract for future reference.

Very truly yours,

THE CURTIS PUBLISHING COMPANY.

(Signed) M. E. Douglas,
*Manager Sales Division.*"

COMMISSION'S EXHIBIT No. 46.

(On letterhead of the Curtis Publishing Company.)

"February 15, 1917.

Mr. Roy M. Woodstock,
192 State Street,
Springfield, Massachusetts.

Dear Mr. Woodstock:

In reply to your letter dated February 13:

In justice to you and to avoid any situation which would be embarrassing to both you and us, we feel it our duty to say that if you were to undertake it, directly or indirectly, we should plan to cancel your arrangements with us.

Our relations have been so very pleasant and satisfactory, that we hope to be able to supply and serve you indefinitely hereafter. And we request to be advised whether your decision is favorable to the continuance of our very pleasant relations for many years to come.

Thanking you for an early reply and with kind personal regards, we are

Very truly yours,
THE CURTIS PUBLISHING COMPANY.
(Signed) J. Mullins,
*Branch Promotive Section.*

Dictated by
MED BHL
(Sgd. M. E. Douglas.)"

By MR. DALY:

Q. After receiving those letters, did you do any more business with the "Pictorial Review," or not?

A. No more than ask to have my money refunded.

Q. Was it refunded?

A. Yes, sir, it was.

Q. Will you look at this letter, written to Mr. Mackinnon, dated February 13, 1917?

A. Yes, sir.

Q. You sent that letter, did you?

A. Yes, sir.

Q. Look also at this letter dated February 16, 1917, addressed to the Pictorial Review Company.

A. Yes, sir.

Q. Did you send that letter?

A. Yes, sir.

MR. DALY: We offer these letters dated February 13, 1917, and the postscript in pencil at the bottom, which goes with the letter.

MR. MILBURN: There is no objection.

(The letter referred to was thereupon received in evidence and marked by the stenographer, "Commission's Exhibit No. 47," and the same is as follows):

COMMISSION'S EXHIBIT No. 47.

(On letterhead of the Springfield News and Cigar Dealers' Association.)

"Springfield, Mass., February 13, 1917.

Mr. B. A. Mackinnon,
Pictorial Review Co., New York City.

My dear Mr. Mackinnon:

Your letter of the 12th at hand and in reply will say that I believe you are doing the right thing to make your publication independent of the American News Co. A live wholesale (independent) agent will get out and sell by getting into closer touch with the retail dealers.

I would like the wholesale agency for the Pictorial Review in Springfield, Mass., as you will note by referring to my letter of the 7th. I must

seek the approval of the Curtis Publishing Co., before definitely agreeing to your proposition. I have written them and as soon as I can I will write you my order.

Thanking you for your favor, I am

Yours respectfully,

(Signed) Roy M. Woodstock.

P. S.—Have not yet received Pictorials ordered Feb. 7. A. Steiger & Co. are much displeased and have bought of News Co. as I have done also.

W"

Mr. Daly: We also offer in evidence, letter dated February 16, 1917, which has been identified by the witness.

(The letter referred to was thereupon received in evidence and marked by the stenographer, "Commission's Exhibit No. 48," and the same is as follows):

Commission's Exhibit No. 48.

(On letterhead of the Springfield News and Cigar Dealers' Association.)

"Springfield, Mass., Feb. 16, 1917.

Pictorial Review Co.,
New York City.

Dear Sirs:

Owing to the fact that the Curtis Publishing Co. refuse to allow me to handle your publication and continue as their representative, I must cancel my acceptance of your offer of the wholesale agency in this city.

As I have not received the 100 copies ordered Feb. 8th, and have been obliged to buy as usual

of the News Co., and the unpleasant situation with A. Steiger & Co., I ask that you return my remittance of $8.78 and oblige,

Yours respectfully,

(Signed) Roy M. Woodstock.

P. S. I am very sorry that I can not accept your offer, but must depend upon the Curtis Agency to keep me going.

R. M. W."

By Mr. Daly:

Q. Will you look at this letter dated February 10, 1917, from the Curtis Company to you, and state whether you received that letter and sent the letter dated February 7, 1917, attached thereto, and signed by you?

A. Yes, sir.

Q. Look at this letter dated February 13, signed by you and sent to the Curtis Publishing Company, together with the reply attached thereto, and state whether you sent that letter and received that reply?

A. Yes, sir.

Mr. Daly: We offer these letters and the replies in evidence.

(The letters referred to were received in evidence and marked by the stenographer, "Commission's Exhibits Nos. 49 and 50," and the same are as follows):

Commission's Exhibit No. 49.

(On letterhead of the Springfield News and Cigar Dealers' Association.)

"Springfield, Mass., Feb. 7, 1917.

Mr. M. E. Douglas,
Curtis Publishing Co.,
Philadelphia, Pa.

My Dear Mr. Douglas:

Yours of the 5th at hand and contents carefully noted. I thank you for your interest in your warning me about taking any wholesale agencies for any magazine without the Curtis Co. approval, as noted in clause 13 of my contract with the Curtis Co.

I assure you it was in my mind when a recent proposition was made to me and accordingly I wrote a letter to your Mr. Flanders regarding it.

I assure you that the relation of myself with the Curtis Publishing Co., have been very pleasant and my wish is to have them continue so, and I will surely do all on my part that I can have them continue so.

Again thanking you for your kindness and wishing you continued prosperity, I am

Yours very respectfully,

(Signed) Roy M. Woodstock."

---

(Reply)

"February 10, 1917.

Mr. Roy M. Woodstock,
192 State Street,
Springfield, Massachusetts.

Dear Sir:

For your very kind letter dated February 7th we thank you most sincerely.

I am telling Mr. Flanders how we appreciate your attitude.

Very truly yours,

The Curtis Publishing Company.
*Branch Promotive Section.*

Dictated by MED BHL"

COMMISSION'S EXHIBIT No. 50.

(Letterhead of the Springfield News and Cigar Dealers' Association.)

"Springfield, Mass., February 13, 1917.

Mr. M. E. Douglas,
Curtis Publishing Co.,
Philadelphia, Pa.

My dear Mr. Douglas:

The publishers of Pictorial Review have offered me the local wholesale agency for their publication. It is not a Boy proposition, but one of properly supplying the retail dealers. Of course occasionally a boy may want a copy or two but to push them out thru the boys is not to be considered, as per the Pictorial company's own request.

Will my acceptance of their agency, under conditions above named, meet with your approval? Please let me have your early reply.

Yours very respectfully,
(Signed) ROY M. WOODSTOCK.

P. S. Would the filing of a report to the Pictorial Publisher, giving them a list of dealers supplied (whom now sell Curtis publications) and number Pictorials sold to each, be considered a violation of my contract with you? R. M. W."

---

"February 15, 1917.

Mr. Roy M. Woodstock,
192 State Street,
Springfield, Massachusetts.

Dear Mr. Woodstock:

In reply to your letter dated February 13:

In justice to you and to avoid any situation which would be embarrassing to both you and

us, we feel it our duty to say that if you were to undertake it, directly or indirectly, we should plan to cancel your arrangements with us.

Our relations have been so very pleasant and satisfactory that we hope to be able to supply and serve you indefinitely hereafter. And we request to be advised whether your decision is favorable to the continuance of our very pleasant relations for many years to come.

Thanking you for an early reply and with kind personal regards, we are,

Very truly yours,

THE CURTIS PUBLISHING COMPANY,
*Branch Promotive Section.*

Dictated by
MED BHL"

By MR. DALY:

Q. Now, will you look at this letter dated February 17, 1917, from you, and addressed to the Curtis Publishing Company and the reply on the back?

A. Yes, sir.

Q. Did you send and receive those letters?

A. Yes, sir; I did.

MR. DALY: We offer these letters in evidence.

(The letters referred to were thereupon received in evidence and marked by the stenographer "Commission's Exhibit No. 51," and are as follows):

COMMISSION'S EXHIBIT No. 51.

"Feb. 15, 1917.

Mr. Roy M. Woodstock,
192 State Street, Springfield, Mass.

Dear Sir:

In October, 1914, at your request made according to Clause 13 of your contract with us, we

sanctioned your taking a wholesale agency for COLLIER'S WEEKLY, with the understanding that you would limit *to newsdealers only*, your deliveries of that periodical.

Later, similar sanction was given to three or four other District Agents who made the same request.

Recently our attention has been called to efforts inconsistent with the condition upon which we sanctioned the arrangement, made or planned to induce P-J-G boys to sell COLLIER'S.

ARE YOU NOW WHOLESALING
COLLIER'S TO BOYS?

A proper regard for our mutual interests now requires that we ascertain whether or not you are supplying COLLIER'S to boys. We shall appreciate an early reply with full particulars.

This is a general letter to each District Agent at whose request we sanctioned a COLLIER'S arrangement like that made by you.

Very truly yours,

THE CURTIS PUBLISHING COMPANY,

C #1 *District Manager.*
Dictated by MED RB"

---

"REPLY SHEET.

PLEASE WRITE YOUR REPLY BELOW FOR A PROMPT ADJUSTMENT OF THE MATTER REFERRED TO. DO NOT RETURN THE ORIGINAL LETTER. RETAIN THE ORIGINAL FOR YOUR FUTURE REFERENCE.

Springfield, Mass., Feb. 17, 1917.

Mr. M. E. Douglas,
Curtis Publishing Co.,
Philadelphia, Pa.

My dear Mr. Douglas:

Regarding the inquiry as stated on the reverse of this sheet, I would say that I am not wholesaling Collier's Weekly. I handled it for a short time only and supplied newsdealers only, never selling to boys.

Yours truly,

(Signed) Roy M. Woodstock."

---

"February 20, 1917.

Mr. Roy M. Woodstock,
192 State Street,
Springfield, Mass.

Dear Mr. Woodstock:

On the strength of your letter received February 19, we have changed our records so that they now show you as not wholesaling Collier's Weekly.

For reasons given in our preceding letter, we suggest that you advise us before making any future arrangements with them in case they should again approach you.

With kind personal regards,

Very truly yours,

The Curtis Publishing Company,
*Branch Promotive Section.*

Dictated by MED SM"

By Mr. Daly:

Q. I show you a letter dated February 16, 1917, sent by you to the Curtis Publishing Company, together with the reply thereto attached. Please state whether you sent and received those letters.

A. Yes, sir.

Mr. Daly: We offer those letters in evidence.

(The letters referred to were thereupon received in evidence and marked by the stenographer "Commission's Exhibit No. 52," and the same are as follows):

COMMISSION'S EXHIBIT No. 52.

(On letterhead of the Springfield News and Cigar Dealers' Association)

"Springfield, Mass., February 16, 1917.

Mr. M. E. Douglas,
Curtis Publishing Co., Philadelphia, Pa.

My dear Mr. Douglas:

Your unfavorable reply received regarding the wholesaling of Pictorial Review.

It seems to me as if you were imposing heavy restrictions upon your Agents. In these days of increased cost of living, we need all we can make. But I know you know your business best.

However, I wish to continue as your representative and will not enter into negotiations with the Pictorial Review Co.

Yours very truly,

(Signed) ROY M. WOODSTOCK."

---

"February 20, 1917.

Mr. Roy M. Woodstock &c.

Dear Mr. Woodstock:

For reasons stated in your letter dated February 16, we are anxious to concede to the individual interest of the District Agent everything we can without sacrificing mutual interests.

One fundamental fact stands out prominently: There is a limit to the number of periodicals seeking circulation among readers of the same class, which a District Agent can handle without taking on the limitations of a branch of the news company. We have District Agents because we need representatives free from such limitations. You are our valued representative because you have heretofore been free from such limitations.

There is nothing temporary or uncertain about our policy of continued direct supplies to District Agents, including you, in accordance with our contracts and our mutual interests, yours and ours alike, will be best served by the maintaining of methods and policies mentioned.

We thank you for having so promptly advised us of your decision as stated in the last paragraph of your letter dated February 16.

Very truly yours,

THE CURTIS PUBLISHING COMPANY,
*Manager, Sales Division.*"

MED SM

CROSS-EXAMINATION.

By MR. MILBURN:

Q. I show you four letters, Mr. Woodstock, and ask you if they constitute correspondence between the Curtis Publishing Company and yourself?

A. Yes, sir.

MR. MILBURN: I offer them in evidence.

MR. DALY: We have no objection to these letters going in.

(The letters referred to were thereupon received in evidence and marked by the stenographer "Respondent's Exhibit No. 14," and the same are as follows):

RESPONDENT'S EXHIBIT No. 14.

(On letterhead of the Springfield News and Cigar Dealers' Association)

"Springfield, Mass., August 14, 1917.

Mr. R. L. Flanders,
Curtis Publishing Co.,
Boston, Mass.

My dear Mr. Flanders:

In September, 1914, I was appointed District Agent for your publications in Springfield, Mass. At that time I was one of four Delivery Agents for the Republican in Springfield. I had had no previous business in magazines. I have since discontinued my position with the Republican Co., to devote my time more to my Curtis Agency upon which I depend for my living, having done so successfully for some time.

Since taking up the Curtis Agency, several magazine publishers have offered me wholesale Agencies, several of which I now represent. One publisher having in his employ a former Curtis road supt. gave me the wholesale Agency for his publication because he always looked up the Curtis District Agent and done business with him if possible. Another concern also gave me their Agency as they had looked me up first at the Curtis office and had received a favorable recommend.

I have also found that being Curtis District Agency has brought me occasional side jobs which have added something substantial to my funds.

I have always found the Curtis Publishing Co. willing to allow me to handle any publication being put out along legitimate lines. I have always enjoyed my business relations with them

very much and I assure you I shall do all on my part to continue them.

Yours very respectfully,

(Signed) Roy M. Woodstock."

---

(Letterhead of the Springfield News and Cigar Dealers Association)

"Springfield, Mass., Feb. 24, 1917.

Mr. M. E. Douglas,
Curtis Publishing Co., Philadelphia, Pa.

My dear Mr. Douglas:

Yours of the 20th giving explanations as to your refusal of my Pictorial Agency received and while it does not require an answer, I do wish to say that I understand my position with you better than I did, and while the increased cost of living makes it seem imperative that I find something extra to bring in, I shall continue to stick by the Curtis publications and push them for all I am worth.

I enjoy the boy work very much and have had several interesting meetings of boys this winter. I am to have another next Friday evening, March 2.

My business dealings with boys and dealers alike are pleasant and they are all "with me" to sell Curtis goods.

Thanking you for your kind way of treating me in this matter, I remain

Yours sincerely,

(Signed) Roy M. Woodstock."

"March 1, 1917.

Mr. Roy M. Woodstock (&c.)

Dear Mr. Woodstock:

Your co-operation with us as set forth in your letter dated February 24 is most gratifying indeed. Thank you very much.

To Mr. Flanders we are sending a copy of your letter and of this reply. He too will be gratified I am sure.

With all good wishes.

Very truly yours,

THE CURTIS PUBLISHING COMPANY,
*Branch Promotive Section.*

Dictated by MED BHL"

---

"FOR SALES DIVISION

Copy of letter sent from
BOSTON

March twentieth
1 9 1 7

Mr. Roy M. Woodstock,
192 State St., Springfield, Mass.

Dear Mr. Woodstock:

The District Agents who were the first to get a foothold as independent distributors through The Curtis Publishing Company know that we would not urge them into any arrangement that would be apt to result to their disadvantage.

By experience such District Agents have learned that it is wise to maintain good business relations with the publishers who resort to no tricks or subterfuges with you, who never deceive you and who concede to your individual interest

everything they can without sacrificing their individual interests and your larger interests.

If you have been told that certain other District Agents are wholesaling any periodical which we have not given you our sanction to wholesale, we hope you have concluded, Mr. Woodstock, that we are the most reliable source from which to obtain a truthful information on the subject.

It is quite possible that you have been told, for example, that Messrs. Levy, Peterson, Schafer, Solomon, Katze, Nelson, Reiser, Goodman, etc. have arranged to wholesale other magazines the handling of which we have been unwilling to sanction; but we have put such information squarely up to these gentlemen, and their replies have failed to confirm any such rumors. In fact, they have denied them without qualification.

Let us urge you with all earnestness not to permit yourself to be irritated by any information along these lines as there is no question but that much baseless information is being circulated with the intention of confusing the minds of those to whom it is sent.

Yours very truly,

RLF-OPO THE CURTIS PUBLISHING COMPANY.

P. S. If your March 15th letter was based on information of an authoritative nature, I'll appreciate and treat as confidential any facts that you may care to write me."

By MR. MILBURN:

Q. Mr. Woodstock, you are engaged as a wholesaler of magazines and newspapers?

A. No, sir; only the Curtis Publishing Company.

Q. You also have a candy or had a retail candy and tobacco business?

A. Newspapers, cigars, candy and tobacco in all forms.

Q. Retail?

A. Yes, sir.

Q. You took the Curtis agency in September, 1914?

A. Yes, sir.

Q. Prior to that time had you ever wholesaled any magazines?

A. No, sir.

Q. Or had you retailed newspapers prior to that time?

A. Wholesaled newspapers.

Q. You had wholesaled newspapers but not magazines?

A. No, sir.

Q. When you took the Curtis agency, that was your start in the wholesaling of magazines—is that correct?

A. Yes, sir.

MR. MILBURN: That is all.

MR. DALY: If it is satisfactory to counsel and the Examiner, I suggest that we recess for lunch.

EXAMINER MOORE: Very well; we will recess until two o'clock.

(Whereupon, at 12.25 o'clock P. M., a recess was taken to 2.00 o'clock P. M.)

---

AFTER RECESS.

2.00 P. M.

L. O. WEST, called as a witness on behalf of the Commission, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Please give your full name and address.

A. L. O. West; Fitchburg, No. 2 Broad Street.

Q. What is your business?

A. Wholesaling newspapers.

Q. What do you handle?

A. Everything in the wholesale newspaper business.

Q. Will you state some of the things you handle?

A. The Boston papers, one of the local papers, and Hearst's magazines, the Curtis publications, Collier's and Munsey's publications.

Q. How long have you been in business there?

A. Eight years.

Q. Have you a contract with the Curtis publishing Company?

A. I have.

Q. How long have you had that?

A. Seven years, I think. I am not positive—about seven.

Q. Has the Crowell Publishing Company ever attempted to get you to handle their publication, "Every Week"?

A. They approached me within a week and a half.

Q. What did you tell them?

A. I told them I would handle it if I could.

Q. What did you mean by that?

A. If the Curtis Publishing Company did not object, I would handle it.

Q. If the Curtis Publishing Company did not object, you would handle it?

A. Yes, sir.

Q. Have they objected to it so far?

A. I have not heard from them.

Q. You have not heard from them?

A. No, sir.

Q. How about the "Pictorial Review"—have they tried to do business with you?

A. Yes, sir.

Q. When?

A. I could not tell you; when they went independent. That is all I know.

Q. This last spring or winter, some time?

A. Yes, sir.

Q. What experience did you have in reference to handling the "Pictorial Review," with the Curtis Publishing Company?

A. I took the "Pictorial Review" for one or two issues, until Curtis—I got their stock letters, telling me I could not handle it, which I did not pay any attention to until Mr. Flanders came to see me——

Q. Who is Mr. Flanders?

A. Their Boston agent.

Q. Proceed.

A. He told me it was possible if I took the "Pictorial," I would have to quit Curtis.

Q. How many "Pictorials" were you handling?

A. About 350—I am not positive, but I think it was that.

Q. Per month?

A. Yes, sir.

Q. Since that time, have you handled the "Pictorial Review"?

A. No, sir.

Q. Will you look at this letter dated February 5, 1917, and also a letter dated February 28th, 1917, and state if you received those letters?

A. Yes, sir.

MR. DALY: We offer those letters in evidence.

EXAMINER MOORE: They may be admitted.

(The letters referred to were received in evidence and thereupon marked by the stenographer "Commission's Exhibits Nos. 53 and 54," and the same are as follows):

COMMISSION'S EXHIBIT No. 53.

(On letterhead of Curtis Publishing Company.)

"Feb. 5, 1917.

Mr. Lewis O. West,
Fitchburg, Massachusetts.

Dear Mr. West:—

The plans of another publisher and his agent (news company) lead us to remind you of Clause 13 of your Curtis contract. The purpose and effect of that clause are as follows:

> *With respect to periodicals not previously wholesaled by you, you definitely agreed to refrain from wholesaling to boys or dealers any periodicals not our own without first obtaining our approval.*

Of course you will be very careful to make with the other publisher or his agent (news company) no arrangement contrary to your Curtis contract.

In justice to you and to avoid any situation which would be embarrassing to both you and us, we feel in duty bound to say that your arrangements with us may be continued only upon the basis stated.

Our relations have been so very pleasant that we hope to be able to supply and serve you indefinitely hereafter.

This is a general letter to all of our District Agents. Please attach it to your Curtis contract for future reference.

Very truly yours,
THE CURTIS PUBLISHING COMPANY,
(Signed) M. E. Douglas,
*Manager Sales Division.*

MED"

COMMISSION'S EXHIBIT No. 54.

(On letterhead of Curtis Publishing Company.)

"Feb. 28, 1917.

Dear Mr. West:

To a few Curtis District Agents, statements by another publisher or his representative have given a wrong idea about one clause of your contract with us. Therefore we again state the effect of that clause:

> You definitely agreed to obtain our approval *before* you make *any* new arrangements to wholesale to boys or *dealers* any non-Curtis periodical (magazine).

You are hereby cautioned against any and all advice or solicitation contrary to this part of your contract.

And you will not fail to take notice that the clause covers wholesaling to dealers as well as to boys.

Of course this does not apply to newspapers nor to arrangements in effect before the date of your contract with us.

You may not see why this letter is sent to you. Probably no one has made representations as above. But such statements have been made to others, and we therefore send this general letter to all District Agents that all may have a full understanding.

> *At any time hereafter if you should desire to wholesale any other magazine, write for our approval and give us full particulars. This is the sure way to mutually satisfactory arrangements.*

Like our earlier notice dated February 5, this letter should be attached to your Curtis contract for future reference.

Very truly yours,

THE CURTIS PUBLISHING COMPANY.
(Signed) M. E. Douglas,
*Manager Sales Division.*

MED"

By MR. DALY:

Q. How large a city is Fitchburg?

A. Forty thousand.

Q. How many wholesalers are there?

A. I am the only newspaper wholesaler.

Q. How about magazines?

A. The News Company handles Fitchburg.

Q. The American News Company?

A. Yes, sir; there are two branches.

Q. In selling these magazines to your retailers, do you do anything or not to follow up the work or promote the work or sales—if so, what?

A. To our news dealer, the only promotion we do is to follow up and see if they are supplied with enough copies.

Q. How often do you do that?

A. They are put out Thursday, and we generally go around Saturday to see who has too many or who has not enough.

Q. That is the general custom in your business, to do that?

A. Yes, sir.

Q. Do you supply any retailers who are furnished by the American News Company?

A. I do.

Q. How many?

A. I should say fifteen or eighteen.

Q. How many do you supply that are not furnished by the American News Company?

A. Twenty odd.

Q. What equipment have you for the delivery of your magazines and papers?

A. Automobile delivery.

Q. How many have you?

A. Two in the afternoon and one in the morning.

Q. Of what do these retailers consist, with whom you deal?

A. Well, drug stores, periodical stores and corner stores, as we call them, that handle a little of everything.

Q. Have you any boys?

A. Yes, sir.

Q. How many boys are there connected with your business?

A. About one hundred.

Q. Testimony has been introduced about so-called Curtis boys. How many of them do you have?

A. What I call Curtis boys, I have three or four that handle Curtis publications.

Q. How about the remainder of them?

A. Maybe eighteen or twenty of them handle Curtis publications with their other stuff.

Q. The remainder of them?

A. The remainder do not handle them at all—just papers.

Q. Just papers?

A. Yes, sir.

Q. When you took on the Curtis agency, as you have testified, about how many boys did you have then?

A. About seventy-five or eighty.

Q. How many did they furnish you?

A. Well, the proportion is larger—what do you mean—obtaining Curtis boys?

Q. I am speaking about the so-called Curtis boys that they furnished occasionally.

A. I could not say exactly; around ten or twelve.

Q. Now, you have four that handle their publications exclusively—is that correct?

A. Yes, sir.

Q. Does that territory in which you operate cover Gardiner also?

A. No, sir.

Q. You confine your business to the city of Fitchburg—is that correct?

A. Yes, sir.

Q. Do you know how the "Pictorial Review" handle their publication in your city?

A. Yes, sir.

Q. How?

A. Through an independent boy there.

Q. Where does that boy reside?

A. On South Street, or Charles.

Q. Is he connected in any way with your office?

A. He used to be.

Q. When?

A. Before they gave him the "Pictorial."

Q. He is not now?

A. No, sir.

Q. What equipment has he?

A. Well, none.

MR. DALY: That is all.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. Mr. West, you entered into a Curtis contract about 1910—seven years ago?

A. Yes, sir.

Q. At that time, what business were you in?

A. Wholesale newspaper business.

Q. Had you ever wholesaled any magazines before you took the Curtis contract?

A. I could not say.

Q. You were not engaged in the business of wholesaling magazines before you took the Curtis publications, were you?

A. I could not say; I am not sure.

Q. Do you know Mr. J. L. Lynne?

A. I could not tell.

Q. He is the Curtis superintendent of agencies?

A. Yes, sir.

Q. Do you know him?

A. Yes, sir.

Q. Did you have a conversation with him with reference to this matter?

A. At that time?

Q. Some time in 1917—about August?

A. About what matter?

Q. About whether you wholesaled magazines before undertaking the Curtis business?

A. I do not remember of it.

Q. Do you remember whether or not you told him you never did wholesale any before?

MR. DALY: The witness has testified he could not say.

MR. MILBURN: I have a right to lay the ground to refute his statement on that matter.

MR. DALY: But if he denies it, you cannot.

By MR. MILBURN:

Q. Do you remember at any time telling him you had never wholesaled magazines prior to doing business with the Curtis Company?

A. I do not remember.

Q. So, you have no recollection at all when you went into the magazine wholesaling business—is that correct?

A. I have not, no, sir.

Q. You can remember how many boys the Curtis people turned over to you and had no difficulty in remembering the other details of your business—how many boys you had yourself—but you cannot remember anything about the wholesale business of magazines—when you started?

A. No, sir.

Q. That escapes your memory?

A. Yes, sir.

Q. Is or is not the wholesale business in magazines a material part of your work?

A. No, sir.

Q. Of your work—your work is with the newspapers?

A. Yes, sir.

Q. But as a wholesaler, you wholesale a great many magazines, do you not?

A. I what?

Q. As a wholesaler, you wholesale a great many magazines, do you not?

A. Yes, sir.

Q. How many copies of the "Post" do you get out in a week?

A. Of what "Post"?

Q. "The Saturday Evening Post"?

A. I believe it is 475.

Q. And "The Ladies' Home Journal"?

A. 400 to 450.

Q. And "The Country Gentleman"?

A. 125—my present drawing.

Q. Then, you wholesale other magazines to a considerable extent, do you not?

A. Yes, sir.

Q. Who do you say wholesales the "Pictorial Review" now in Fitchburg?

A. H. O'Neill.

Q. He was once an employee of yours?

A. Yes, sir.

Q. You paid him a salary then?

A. I did, then.

Q. Do you pay him a salary now?

A. No, sir.

Q. He has no equipment with which to distribute this paper?

A. No, sir.

Q. Do you aid him in the distribution?

A. Last night I carried them downtown for him to his house, if you call that aiding him.

Q. Your equipment got them and distributed them?

A. My own personal machine—not my delivery wagon.

Q. Further than that, you do not know how he distributes?

A. Yes, sir; under his arm.

Q. You said of what you call a Curtis boy, you had only three or four. What do you call a Curtis boy?

A. Boys that handle Curtis publications solely.

Q. Solely?

A. Yes, sir.

Q. Under the terms of your contract, you have to report every week to the Curtis Company as to the activities of the boys used by you?

A. Yes, sir.

Q. How many boys do you report each week?

A. I could not give the exact figures, because I do not make that out. The bookkeeper does that.

Q. You have general supervision over your business?

A. Yes, sir.

Q. You could not give the precise figures as to the number of boys you report?

A. I could not.

Q. Is it twenty?

A. I should say twenty-five, as an offhand guess.

Q. Are they not the Curtis boys?

A. No, sir.

Q. You report on boys other than Curtis boys?

A. They sell Curtis publications, but I have to make a report on every copy I get.

Q. Your other boys are newsboys engaged in the selling of newspapers?

A. Yes, sir.

Q. And then you have to make no report on those other boys?

A. That handle Curtis?

Q. You do not have to make any report on the boys who handle only newspapers?

A. No, sir.

Q. Now, the American News Company has two branches in Fitchburg, has it not?

A. Yes, sir.

Q. Any retailer can go there and purchase magazines at his will?

A. Yes, sir.

Q. Are there any of your customers among the news dealers that do not also draw magazines from the news company?

A. Yes, sir.

Q. About how many?

A. I should say about forty draw from me and eighteen or twenty from the News Company. Half of them just handle the independent magazines.

Q. Subsequent to your conversation with Mr. Flanders, you gave up the "Pictorial"?

A. Yes, sir.

Q. Now, I will repeat that question I put to you

a while ago—do you know what was the first magazine you wholesaled?

A. No, sir.

Q. You could not tell whether it was Curtis or something else?

A. No, sir.

MR. MILBURN: That is all.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. Do you make any charge to your retailer for delivering magazines?

A. No, sir.

Q. Do you know whether or not the American News Company does?

A. I could not say positively. I know they charge express, but whether you call that a charge or not, I do not know.

---

CHESTER A. GOLDSMITH was called as a witness on behalf of the Commission, and being first duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Please give your full name and address.

A. Chester A. Goldsmith, Salem, Massachusetts.

Q. How large a city is Salem, Massachusetts?

A. About 35,000 at the present time.

Q. What business are you engaged in?

A. Wholesale news dealer.

Q. Wholesaling and retailing what?

A. Not retailing.

Q. Wholesaling what?

A. Magazines and newspapers.

Q. Magazines?

A. Practically everything that is printed in the magazine line.

Q. Do you handle newspapers also?

A. Yes, sir.

Q. Are there any other wholesalers in your city?

A. We are the only wholesalers in our city, yes, sir.

Q. Do you want to qualify that?

A. The New England News Company makes delivery of magazines only.

Q. What is the New England News Company?

A. A branch of the American News Company.

Q. What equipment have you for the distribution of your magazines and newspapers?

A. We use car service and teams.

Q. How many teams have you?

A. Three.

Q. What do you mean by car service?

A. We do our buying for the sub-agents and put them on the electric cars and deliver to the sub-agents.

Q. How many retailers do you reach in that city?

A. About fifty.

Q. Do you know whether or not the American News Company or the New England News Company reaches all these men?

A. I think they supply five.

Q. Do you purchase the magazines of the Curtis Publishing Company?

A. Yes, sir.

Q. And you are under contract, are you not?

A. Yes, sir.

Q. When did you begin to deal with them?

A. About ten years ago. I think it was 1907.

Q. Did you have an equipment for your other business?

A. Yes, sir.

Q. Similar to what you have now?

A. Yes, sir.

Q. Are you familiar with the restrictive clause in that contract?

A. I think so.

Q. Did the Pictorial Review Company ever endeavor to do business with you?

A. Yes, sir.

Q. When?

A. I should say about a year ago—before that, in fact. Before they ever started independent distribution, they made a special offer to us for the promotion work, and we took it up.

Q. You handled their "Pictorial Review"?

A. Yes, sir.

Q. You still handle it?

A. Yes, sir.

Q. Did the Curtis Publishing Company object to your handling the "Pictorial Review"?

A. Yes, sir.

Q. Will you tell the Examiner what happened to that objection?

A. I called at Mr. Flanders' office and took up the matter with him.

Q. When did you call there?

A. Two days previously, he called at Salem and talked about it.

Q. What did he say about it?

A. I do not remember what he said at that time.

Q. When you called at the office in Boston, what happened with Mr. Flanders?

A. I asked Mr. Flanders if we took on the "Pictorial Review," were we through with the Curtis Company, and he said yes. I said we were through and he said "You had better wait and think it over."

Q. Did they cut off their publications or not?

A. No, sir; they are still thinking it over or we are or somebody.

Q. I show you a letter dated March 1, 1917. Will you look at that letter and tell me if you received that letter?

A. Yes, sir.

MR. DALY: I offer this letter in evidence.

EXAMINER MOORE: It will be admitted.

(The letter referred to was thereupon received in evidence and marked by the stenographer "Commission's Exhibit No. 55," and it is as follows):

COMMISSION'S EXHIBIT No. 55.

(On the letterhead of The Curtis Publishing Company)

"Mar. 1, 1917.

Messrs. A. F. Goldsmith & Company,
4 Barton Square,
Salem, Massachusetts.

Gentlemen:

To a few Curtis District Agents, statements by another publisher or his representative have given a wrong idea about one clause of your contract with us. Therefore we again state the effect of that clause:

> You definitely agreed to obtain our approval BEFORE you make ANY new arrangements to wholesale to boys or DEALERS any non-Curtis periodical (magazine).

You are hereby cautioned against any and all advice or solicitation contrary to this part of your contract.

And you will not fail to take notice that the clause covers wholesaling to dealers as well as to boys.

Of course this does not apply to newspapers nor to arrangements in effect before the date of your contract with us.

You may not see why this letter is sent to you. Probably no one has made representations as above. But such statements have been made to others, and we therefore send this general letter to all District Agents that all may have a full understanding.

*At any time hereafter if you should desire to wholesale any other magazine, write for our approval and give us full particulars. This is the sure way to mutually satisfactory arrangements.*

Like our earlier notice dated February 5, this letter should be attached to your Curtis contract for future reference.

Very truly yours,

THE CURTIS PUBLISHING COMPANY,
(Signed) M. E. DOUGLAS,
*Manager Sales Division.*"

MED.

By MR. DALY:

Q. Did you reply to that?

A. I think I did.

Q. Will you look at this letter (handing letter to witness)?

A. Yes, I wrote that.

MR. DALY: We offer this in evidence. It is a letter dated March 3, 1917, which is a reply to the other letter which has just been admitted.

EXAMINER MOORE: It will be admitted.

(The letter referred to was thereupon received in evidence and marked by the stenographer "Commission's Exhibit No. 56," and the same is as follows):

COMMISSION'S EXHIBIT No. 56.

"A. F. GOLDSMITH & CO.
*Wholesale News Dealers*
No. 4 Barton St., Salem, Mass.

Salem, Mass., March 3, 1917.

Curtis Publishing Company,
Sales Division,
Philadelphia, Pa.

Gentlemen:

The receipt of your circular letter of March first reminds us that we were ready to write you concerning arrangements proposed regarding the handling of magazines.

When we took over your agency for Curtis publications several years ago we were wholesaling all magazines to dealers through the New England News Company office in Boston, and it was well understood, as noted in the fifth paragraph of your letter to us of March first, that these arrangements of supplying dealers would be continued by us without changing the effect of any clause in your contract.

Recent advances by the publishers of Pictorial Review and Literary Digest are called to your attention merely for the reason that we would rather you would know just what we are doing and in order that you might not think we were putting something over on the Curtis Publishing Company by making arrangements with these publishers direct.

As the matter stands, we are to wholesale to dealers only the Pictorial Review and Literary Digest, and this is not new business, but merely a changing of base of supplies, from the News Company to the publishers. In case we ever take

up any new magazine, that is, a magazine heretofore not published, we will advise you for record in your office.

Very truly,

A. F. GOLDSMITH & Co.,

(Signed) C. A. GOLDSMITH."

By MR. DALY:

Q. Do you handle "Every Week," Mr. Goldsmith?

A. No, sir.

Q. Have the Crowell Publishing Company ever asked you to handle that publication?

A. Yes, sir.

Q. Will you look at this letter dated February 15, 1917, and tell me if you received that (handing letter to witness)?

A. Yes, sir.

Q. Look at this letter dated February 5, 1917, from Mr. M. E. Douglas of the Curtis Publishing Company, and state whether that letter was received by you from them or not?

A. Yes, sir.

Q. Did you reply to this letter of February 15, if you recall?

A. I think not.

MR. DALY: We do not seem to have any reply.

MR. SPIESS: No, sir.

MR. DALY: We offer these two letters in evidence, Mr. Examiner.

EXAMINER MOORE: The letters will be admitted in evidence.

MR. MILBURN: We have no objection.

(The letters referred to were thereupon received in evidence and marked by the stenographer "Commission's Exhibits Nos. 57 and 58," respectively, and the same are as follows):

COMMISSION'S EXHIBIT No. 57.

(On letterhead of The Curtis Publishing Company)

"Feb. 15, 1917.

Mr. A. F. Goldsmith,

#4 Barton Square, Salem, Massachusetts.

Dear Sir:

In September, 1914, at your request made according to Clause 13 of your contract with us, we sanctioned your taking a wholesale agency for COLLIER'S WEEKLY, with the understanding that you would limit *to news dealers only,* your deliveries of that periodical.

Later, similar sanction was given to three or four other District Agents who made the same request.

Recently our attention has been called to efforts, inconsistent with the condition upon which we sanctioned the arrangement, made or planned to induce P-J-G boys to sell COLLIER'S.

ARE YOU NOW WHOLESALING COLLIER'S TO BOYS?

A proper regard for our mutual interests now requires that we ascertain whether or not you are supplying COLLIER'S to boys. We shall appreciate an early reply with full particulars.

This is a general letter to each District Agent at whose request we sanctioned a COLLIER'S arrangement like that made by you.

Very truly yours,

THE CURTIS PUBLISHING COMPANY,

(Signed) C. L. GROSJEAN,

Dictated by MED MAB *District Manager.*

(Signed) M. E. DOUGLAS."

COMMISSION'S EXHIBIT No. 58.

"Feb. 5, 1917.

Messrs. A. F. Goldsmith & Company,
Salem, Massachusetts.

Gentlemen:

The plans of another publisher and his agent (news company) lead us to remind you of Clause 13 of your Curtis contract. The purpose and effect of that clause are as follows:

> *With respect to periodicals not previously wholesaled by you, you definitely agreed to refrain from wholesaling to boys or dealers any periodicals not our own without first obtaining our approval.*

Of course you will be very careful to make with the other publisher or his agent (news company) no arrangement contrary to your Curtis contract.

In justice to you and to avoid any situation which would be embarrassing to both you and us, we feel in duty bound to say that your arrangements with us may be continued only upon the basis stated.

Our relations have been so very pleasant that we hope to be able to supply and serve you indefinitely hereafter.

This is a general letter to all of our District Agents. Please attach it to your Curtis contract for future reference.

Very truly yours,
THE CURTIS PUBLISHING COMPANY,
(Signed) M. E. DOUGLAS,
*Manager Sales Division.*"

MED

By MR. DALY:

Q. Mr. Goldsmith, you deliver your magazines and papers to retailers of that city, do you not?

A. Yes, sir.

Q. Do you cover any other territory?

A. No, sir.

Q. Are many of those retailers boys?

A. I have about 125 boys.

Q. You have heard this term of "Curtis boy," which has been mentioned here in this case this morning, have you not?

A. Yes, sir.

Q. How many, out of that 125, would be boys that handled exclusively the Curtis publications?

A. About two.

Q. And what does the rest handle?

A. Why, probably about 100 would handle magazines of all kinds. The others would not handle anything but newspapers.

Q. I would like to ask you what plans you have for following up these retailers, if you have any, to see what they are doing about the sale of your magazines.

A. We cover every week.

Q. You mean you are in personal touch with them every week?

A. Yes, sir.

Q. What charge do you make these retailers for delivering papers?

A. No charge for delivering.

Q. Does the New England News Company make a charge?

A. Yes, sir.

Q. Let me ask you this: How do the newspapers deliver their papers to Salem?

A. They have an automobile truck and send them over the road.

Q. From Boston?

A. Yes, sir.

Q. How far is Salem from Boston?

A. Eighteen miles.

Q. I hand you a letter dated June 25, 1912. Will you look at that letter? It is addressed to you. Did you receive that letter from the Curtis Publishing Company?

A. Yes, sir.

Q. Will you also look at a letter dated April 7, 1911, from the Curtis Publishing Company?

A. Yes, sir.

Q. Look also at this letter of June 26th, 1912, and this letter dated July 25, 1912 (handing letters to witness).

MR. MILBURN: I object to those four letters on the ground that they have reference to transactions in 1911 and 1912, and cover time prior to the enactment of the statute under which these proceedings are brought.

MR. DALY: For the present I will withdraw these letters and will not offer them. I am asking that they be marked for identification.

(The letters referred to were thereupon marked by the stenographer for identification.)

By MR. DALY:

Q. Do you know what the Publishers News Company was?

A. It was some kind of delivery company for the Butterick Company.

MR. MILBURN: I object. That question is directed to the same transactions.

MR. DALY: I will stop for the present and take this up later. That is all.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. You have had your contract with the Curtis Company renewed from time to time, at different dates?

A. Yes, sir.

Q. It originally began in 1907?

A. Yes, sir.

Q. Am I correct about that?

A. Yes, sir.

Q. Had you, then, in 1907, when you first signed up with the Curtis Publishing Company, been engaged in the wholesaling of magazines prior to that?

A. Yes, sir.

Q. Do you mean you had gotten your contract from the publishers?

A. I had, from those publishers that sent them out direct. The only one was the Red Star News Company at that time.

Q. At that time you had to purchase magazines direct from the American News Company?

A. With the exception of the Red Star News Company.

Q. What concern is that?

A. Frank A. Munsey.

Q. The Munsey publications?

A. Yes, sir.

Q. You dealt with them at wholesale direct with the publishers, before you dealt with the Curtis publications?

A. Yes, sir.

Q. You are quite certain and accurate about that?

A. Very positive, yes, sir.

Q. You served fifty retailers?

A. Yes, sir.

Q. Of the fifty, the New England serves but five?

A. Yes, sir.

Q. But they serve other retailers throughout the district?

A. That is the only five they cover in Salem.

Q. Is that the total business of the New England News Company in Salem?

A. I think so; yes, sir.

Q. You have handled the "Pictorial Review" for some time?

A. Yes, sir, ever since it was published.

Q. When did you begin—I do not know when it was myself.

A. I do not know when it started publication, but I should say it was nearly twenty-five or thirty years, if it is as old as that.

Q. Have you handled the "Pictorial Review" at Salem for twenty-five to thirty years?

A. Yes, sir.

Q. When you say the "Pictorial Review" came to you and tried to get you to handle it, you referred to a time twenty-five years ago?

A. No, sir; at the time they came to put it out direct. We were buying, at that time, from the American News Company.

Q. Did you not understand my question to be, direct with the Pictorial Company?

A. No, sir.

Q. I wanted to know how long you had done business with the Pictorial Company direct, in the wholesaling of papers?

A. I did not understand you.

Q. How long was that?

A. Fourteen or fifteen months.

Q. And during this period of time, you have wholesaled the Curtis publications too?

A. Yes, sir.

Q. Is there any difference in your method of wholesaling the two sets of publications?

A. We do not do any "Pictorial" business through boys; that is, we do not promote the work through boys at all.

Q. You handle that wholesale entirely with the news dealers?

A. Except where a boy comes in and wants a

"Pictorial." In that case we let him have it, but we do not try to push it through boys at all.

Q. If any one of those 125 boys want to deal with "Pictorials," of course they can?

A. Yes, sir.

Q. Does this go on to any extent?

A. No, sir.

Q. About what proportion?

A. Perhaps half a dozen.

Q. Half a dozen?

A. Yes, sir.

Q. Now, you say of these boys, there are only two so-called Curtis boys?

A. If you mean by Curtis boys, boys who sell only Curtis publications, there are only two.

Q. You report each week on the work done by the boys selling the Curtis publications?

A. Yes, sir.

Q. How many boys do you report back to the company each week?

A. About fifty.

Q. When you took the Curtis agencies, did they turn over any boys to you?

A. I am not sure about it.

Q. And since you have been operating under that contract, have their roadmen done anything to facilitate your getting boys?

A. Yes, sir.

Q. Have they advertised to aid in getting boys?

A. Yes, sir.

Q. Then, have you, in getting this staff of boys, received from them any premium or bonus for securing the boys?

A. Only one or two cases where the boys won prizes I believe the company gave us bonuses.

Q. Where they have been promoted to master

salesmen in this Curtis League—have you received any of those bonuses?

A. No, sir; I do not think so.

Q. You understand, under your Curtis contract, one of your duties is the supervision over the so-called Curtis boys, and their education in the sale of papers?

A. We give them the papers. We do not educate them.

Q. Some agents testified they do train them and receive a bonus. I wondered if you worked under the same scheme?

A. No, sir.

Q. If you know, Mr. Goldsmith, will you tell us how many of these boys sold the Curtis publications as their first magazine?

A. Referring to the boys selling?

MR. DALY: Will you read that question?

(The stenographer repeated the question.)

THE WITNESS: Perhaps four or five.

MR. MILBURN: Only four or five?

THE WITNESS: Yes, sir.

---

DAVID W. BOLAND was called as a witness on behalf of the Commission, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. SPIESS:

Q. Where do you do business, Mr. Boland?

A. Worcester.

Q. Massachusetts?

A. Yes, sir.

Q. What kind of business are you in?

A. Just wholesale newspapers and magazines.

Q. How long have you been in that business?

A. About twenty years.

Q. Twenty years?

A. Yes, sir.

Q. How long have you been under contract with the Curtis Company?

A. We have had contracts with them, but not of late.

Q. How long were you under contract with them?

A. I used to have it a year at a time.

Q. When did you first make a contract with the Curtis Company to wholesale these publications?

A. That was away back in 1901.

Q. Prior to that, what did you wholesale in the way of periodicals or magazines?

A. I just wholesaled newspapers.

Q. After you began wholesaling Curtis publications, what other magazines did you handle?

A. Well, I took on the Hearst magazines first.

Q. What else?

A. Then I took on Munsey's, and I took on different little magazines that went independent—"Pearson's," and other magazines that did not amount to much.

Q. When did you terminate your contract, or when was your contract with the Curtis Company terminated?

A. Well, I never kept it up much. I have not had any to sign for three or four years.

Q. Have you been handling Curtis publications?

A. Yes, sir; right along.

Q. Without a contract?

A. Yes, sir.

Q. Are you under contract now?

A. No; I have no contract now.

Q. Did you ever handle "Pictorial Review"?

A. I handled it the first two months when it went direct.

Q. Are you handling it now?

A. Not now.

Q. Why are you not handling it now?

A. Well, I do not know that I could give any good reason for it.

Q. Did you ever receive a letter from the Curtis Company stating that your handling of the "Pictorial Review" would be objectionable to them?

A. Well, I know they would not want me to do it.

Q. How do you know that?

A. The only way—there was a meeting at Boston——

Q. Who had it?

A. The suburban news dealers, and it came up. It seems that everybody was objecting to them handling it—the Curtis people were objecting to all agents.

Q. They were objecting to all agents?

A. Yes, sir.

Q. Did you ever receive a letter from the Curtis Company objecting to your handling the "Pictorial Review"?

A. No, sir; I never received any.

Q. Did you ever handle "Collier's Weekly"?

A. Yes, sir.

Q. Did they ever object to your handling that?

A. No, sir; they never objected to that.

Q. You say they never wrote you a letter?

A. Not that I remember about—not directly.

MR. SPIESS: Is Mr. Boland in the territory covered by your letter No. 1?

MR. DOUGLAS: I think so—formerly was, anyway.

MR. SPIESS: You are willing to stipulate you did send him a letter?

MR. DOUGLAS: It is my impression the letter went to him.

MR. MILBURN: But did he ever get it?

THE WITNESS: Nothing in reference to "Pictorial" that I recall.

MR. DOUGLAS: That never mentioned "Pictorial." It was just general.

By MR. SPIESS:

Q. Did the agent of the Curtis Publishing Company ever come to you and tell you that you should not handle the "Pictorial Review"?

A. No, sir, nobody came that way.

Q. Nobody approached you?

A. No, sir.

Q. I show you a letter dated March 9th, 1917, purporting to be signed by you, addressed to the Curtis Publishing Company, and ask you if you wrote that letter? (Handing letter to witness.)

A. We wrote that in the office.

Q. Did you write it?

A. I did not write it, but I knew it was written.

Q. Did you sign it?

A. No. sir, I did not sign it.

Q. Who signed it?

A. The bookkeeper must have signed it.

Q. At your direction?

A. Sir?

Q. Do you assume responsibility for that?

A. Yes, sir; the letter is O. K.

Q. In this letter you said that the " 'Pictorial Review' offers the agency for their magazine, and I would like to get the dealers to fight the News Company." Now, did you intend that letter to be a request on the Curtis Company to allow you to handle the "Pictorial Review"?

MR. MILBURN: I object to that; the letter speaks for itself.

MR. SPIESS: I offer the letter in evidence.

EXAMINER MOORE: Is there any objection?

MR. MILBURN: No, sir.

(The letter referred to was received in evidence and thereupon marked by the stenographer, "Commission's Exhibit No. 59," and the same is as follows):

COMMISSION'S EXHIBIT No. 59.

"BOSTON AMERICAN AGENCY—39 Mechanic Street,
David W. Boland, Mgr.
Magazines & Newspapers
Worcester, Mass.
March 9, 1917.

Curtis Pub. Co.
Dear Sirs:

I am trying to make my independent agency more profitable. The News Company here handles the Curtis Company goods and sell a good many giving returns and special inducements. The Pictorial Review offers the agency for their magazine to me to supply the dealers that are now supplied by the News Company also their own dealers that draw 100 copies. I would like to get the dealers to fight the News Company. I am not going to push their magazines to our boys. It makes the Curtis magazine stronger with the independent agent and chances are I will get many dealers that draw Pictorial Review to carry the Ladies' Home Journals and also give display.

Truly yours,
D. W. BOLAND."

By MR. SPIESS:

Q. After writing that letter of March 9th, 1917, I show you a carbon of a letter purporting to come from the Curtis Company to you, and ask if this letter was received by you?

A. Yes, I received that letter.

MR. SPIESS: We offer that in evidence.

EXAMINER MOORE: The carbon copy will be admitted in evidence.

MR. MILBURN: There is no objection.

(The letter referred to was thereupon received in evidence and marked by the stenographer, "Commission's Exhibit No. 60," and the same is as follows):

COMMISSION'S EXHIBIT No. 60.

"March 14, 1917.

Mr. D. W. Boland,
39 Mechanic Street,
Worcester, Massachusetts.

Dear Mr. Boland:

In the course of a recent conversation with Mr. Flanders I understood him to say that he had made you fully acquainted with his attitude concerning The Pictorial Review to which your letter dated March 9 refers.

To avoid any misunderstanding, however, we have referred your letter to Mr. Flanders who will write you concerning the matter.

Yours very truly,
THE CURTIS PUBLISHING COMPANY,
*Branch Promotive Section.*

Dictated by MED SM."

By MR. SPIESS:

Q. Now, after reading that copy, does that refresh your mind in reference to the fact that Mr. Flanders did call on you and state the objection of the Curtis Company to your handling the "Pictorial Review"?

MR. MILBURN: What was that question?

(The stenographer repeated the question.)

THE WITNESS: Mr. Flanders did come and say something about it.

By Mr. Spiess:

Q. Then you wish to change your first answer?

A. Well, Mr. Lynne did not come.

Q. I did not mention Mr. Lynne.

A. You did not? I thought you did.

By Mr. Daly:

Q. When was that?

A. I think it was when the "Pictorial" went direct. We had it for two issues.

Q. Then what became of it?

A. We had to cut it out.

Q. What did Mr. Flanders say to you?

A. Well——

Mr. Milburn: I move to strike out that part of the answer of the witness—"We had to cut it out."

Examiner Moore: State what you did.

The Witness: What do you mean?

Mr. Spiess: What did you do about "Pictorial Review"? You said you handled two issues. What did you do then—did you quit handling?

The Witness: Yes, sir.

Mr. Milburn: I move that that answer be stricken out—"cut it out."

Examiner Moore: That will be stricken out.

By Mr. Spiess:

Q. When Mr. Flanders called on you, what did he say in reference to handling "Pictorial Review"?

A. I could not remember just what he said.

Q. Give me the substance of it.

A. He did not like me handling it.

Q. Did he say he did not, or the Curtis Company did not?

A. Well, I could not say whether it was him or the Curtis Company.

Q. What did you——

A. It was understood, though, that they did not want me to handle it.

Q. That the company did not want you to handle it?

A. That is the way I took it.

Q. What did you do after the conversation with Mr. Flanders?

A. I gave it up.

Q. What was the reason for your giving it up?

A. I did not want—the Curtis magazines were so much larger and there was so much more profit in them, I did not want to conflict with them.

Q. Did you know that you would lose the Curtis agency if you continued to handle the "Pictorial Review"?

MR. MILBURN: I object. It is impossible for him to know that. It is simply giving his knowledge of the prospective action of a third person.

By MR. SPIESS:

Q. Did Mr. Flanders say anything to you about losing the Curtis agency if you continued handling the "Pictorial Review"?

A. No, sir.

Q. But despite this, you gave it up?

A. Yes, sir; rather than take a chance.

Q. You are not handling "Pictorial" now?

A. No, sir.

Q. What did you handle at that time?

A. The first two issues, I guess we got 1200 a month.

Q. How many "Posts" do you handle?

A. 3250.

Q. How many "Ladies' Home Journal"?

A. 3000.

Q. A month?

A. Yes, sir.

Q. Have you any boys?

A. Oh, about every boy in town.

Q. How many would that be?

A. Probably 300 sell magazines.

Q. How many?

A. I say probably 300 sell magazines.

Q. How many boys are selling magazines and newspapers?

A. Probably 250 that handle newspapers and probably there are 600 boys altogether in the city.

Q. That handle newspapers and magazines?

A. Handle magazines and newspapers.

Q. Not 500?

A. Well, there are about 500 or 600 licenses to sell papers.

Q. How many boys deal with you in handling newspapers and magazines?

A. They all deal indirect. We have sub-agents. The Curtis Company has four sub-agents, and I get the copies and distribute them to them and they give them out to the boys.

Q. You say you have about 250 boys handling magazines and newspapers?

A. They handle a few. We do not make a report of all the boys handling, but they handle some. The boys handle "The Saturday Evening Post."

Q. In connection with other magazines, how many Curtis boys have you?

A. About eighty that do not handle anything else.

Q. Have you received any money from the Curtis Company for the work you have done in getting and developing Curtis boys?

A. Yes, sir; they have paid at different times different bonuses.

Q. How much have they paid you if you know, approximately?

A. I could not say. They paid pretty good at different times.

MR. SPIESS: I ask that that be stricken out. It is not responsive. I asked if he could give an approximate amount, and he said they paid pretty good. The answer is not responsive.

MR. MILBURN: He says he gets a lot.

MR. SPIESS: I ask that that answer be stricken out.

EXAMINER MOORE: Mr. Reporter, read the question and answer.

(The stenographer repeated the question and answer.)

By MR. SPIESS:

Q. What do you mean by "pretty good"?

A. I mean on all the Curtis——

Q. I ask this question: How much has the Curtis Company paid you in dollars and cents, for the work you have done in obtaining or developing Curtis boys, so-called?

A. I could not tell you that.

Q. Has it been much?

A. Well, they paid me probably $100.

Q. In what length of time?

A. In the last two or three years. They paid right along different amounts, but in the last two or three years I have got, I think, $100.

Q. That would cover promotion work and development of about how many Curtis boys?

A. That was paid mostly for sales—if they sold

so many copies, we got so much. That did not go towards paying for getting boys, and so forth.

Q. That last payment would be still in the nature of a bonus, would it not?

A. A sort of bonus.

Q. Getting back to my original question, how much money, in dollars and cents, has the Curtis Company paid you in the last two or three years for the obtaining and development of the so-called Curtis boys?

A. Well, I have not got anything in that line.

Q. You have not received any money for that?

A. No, sir.

Q. Are there any other independent wholesalers in your town?

A. No, sir; none other.

MR. SPIESS: That is all.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. You began your wholesale distribution of magazines with the Curtis publications; did you not?

A. I did not catch that.

Q. You began the wholesale distribution of magazines with the Curtis publications; did you not?

A. Well, I was first agent for the Curtis publications, but the others came gradually along.

Q. After that you took on other magazines?

A. Yes, sir.

Q. And when you joined up with the Curtis people, you had a contract and deposited a cash security.

A. Yes, sir.

Q. And you are still working along in that same way and they have it?

A. Yes, sir; they have the security.

Q. You never did anything to terminate the contract yourself, did you?

A. No, sir.

Q. And they never served a thirty-day notice on you that they would terminate the contract?

A. No, sir; not this time.

Q. The contract is still running along—it is an indeterminate contract?

A. Yes, sir.

Q. You report every week on the boys—what they are doing in the sales, et cetera?

A. I do.

Q. How many boys do you report?

A. We have about thirty in the office alone, and others are under the sub-agents, and they make the reports to us.

Q. You give those reports to the Curtis Company?

A. Yes, sir.

Q. How many would that be altogether?

A. About eighty or ninety boys.

Q. Are they members of the Curtis League, or do they have anything to do with it?

MR. DALY: I do not think that is a fair question. There is not a thing in the record about the Curtis League—what is the Curtis League? It seems to me there should be some ground work for that. There has been nothing in the record about that.

MR. MILBURN: We had a lot of testimony about boys becoming master salesmen in the Curtis League, and so forth.

MR. DALY: I think if learned counsel will refresh his memory, he will find he was testifying about that. Well, let it go in.

EXAMINER MOORE: Go ahead with the answer.

By MR. MILBURN:

Q. About how many are there?

A. There are about three master salesmen. I do

not have much to do with that, because the sub-agents take care of that.

Q. Does the Curtis Company pay you a regular weekly amount?

A. No, sir; a regular weekly amount?

Q. Yes.

A. No, sir.

Q. Does the Curtis Company pay you a weekly sum for supplying and promoting sales through boys only?

A. No, sir; we do not get any regular salary from them.

Q. Do they pay you any weekly sum for supplying magazines or papers for four boy sub-agents?

A. Those copies are given me a little cheaper, and I supply them and charge a little more. A better arrangement was made between the boys and Mr. Flanders.

Q. You get a little added profit there?

A. I do not make any more on them.

Q. You are sure about that—let me get this question right, because I am a little confused about it myself: Does not the Curtis Company pay you a weekly sum for supplying four boy sub-agents?

A. No, sir; they do not pay me any weekly sum.

Q. Some of the boys, when you took the agency, were turned over by the Curtis Company?

A. They keep getting agents right along for us.

RE-DIRECT EXAMINATION.

By MR. SPIESS:

Q. Do you charge the retailer anything for delivering to him magazines or newspapers?

A. No, sir; we do not have any charge.

Q. No cartage charge at all?

A. No, sir.

Q. Can you state of your own knowledge whether the American News Company itself does through the branch houses?

A. Yes; they have different prices.

Q. Is there a branch of the American News Company in your city?

A. Yes, sir.

Q. How many retail dealers do you serve in your locality?

A. Well, we have altogether about 400 accounts.

Q. 400 accounts?

A. Yes, sir; you mean stores?

Q. How many retail dealers do you supply with magazines and newspapers?

A. Probably 100.

Q. 100 news dealers?

A. Yes, sir.

Q. Retailers?

A. Yes, sir.

Q. How many are there in your locality?

A. Well, they are all right around in town.

Q. How many retail news dealers are there in your locality?

A. How many news dealers that handle newspapers without magazines?

Q. No; how many retail news dealers in your city?

A. Probably three to four hundred altogether.

Q. How many do you supply of that number?

A. I supply them all.

Q. Can you state of your own knowledge, how many the American News Company supplies?

A. I guess they probably supply about 250.

Q. About 250?

A. Yes, sir.

Q. How many of them are there, do you know?

A. About 400 there.

RE-CROSS-EXAMINATION.

By MR. MILBURN:

Q. Any one of them could go and buy copies through the New England News Company?

A. Yes; they sell all kinds of papers and magazines.

Q. Can any retail news dealer go to a branch of the American News Company and get the Curtis publications?

A. Yes; they can.

MR. SPIESS: Do you know? I move to strike out that answer unless he knows.

By MR. SPIESS:

Q. Do you know?

A. They can, but they do not.

Q. Do you know of your own knowledge why they do not?

A. Yes, sir; there are different reasons.

Q. State what the reasons are, if you know?

A. Well, I suppose cartage is one thing; service is another.

Q. What do you mean by service?

A. We give them service up there.

Q. Explain what you mean by service.

A. They get better service.

Q. From whom?

A. From us—quicker and we seem to take care of it better.

Q. You can take care of it better than the American News Company?

A. Yes, sir.

Q. What do you know about the non-returnable basis of the American News Company?

A. They have been returning them right along up to a short while ago, on account of competition.

Q. Can the retail news dealers return their Curtis publications to the American News Company?

A. Yes, sir.

Q. Is it on a non-returnable basis or what?

A. That is only within the last few months that the magazines cut off returns on all magazines.

MR. SPIESS: That is all.

---

PHILIP HENRY CARROLL, called as a witness on behalf of the Commission, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. SPIESS:

Q. Mr. Carroll, where do you do business?

A. Chelsea, Massachusetts.

Q. What kind of business are you in

A. Wholesale news dealer and Curtis agent.

Q. What is that?

A. Agent for the Curtis Publication Company.

Q. How long have you been in business?

A. Approximately 20 years.

Q. Approximately 20 years as a wholesaler?

A. It is pretty hard to say when I started wholesaling magazines. I do not recall.

Q. How long have you been in the wholesale business altogether—newspapers and magazines?

A. My brother originally started the business, and when I went in there he was wholesaling magazines and newspapers.

Q. When was that?

A. 20 years ago.

Q. How long have you been under contract with the Curtis Publishing Company?

A. Approximately four years.

Q. Four years?

A. Four or five years.

Q. Prior to that time, what did you handle in the wholesale business?

A. We handled all magazines.

Q. All magazines?

A. Yes, sir.

Q. And newspapers?

A. That is, we obtained our supply from the American News Company and wholesaled them at a profit.

Q. Did you, prior to your contract with the Curtis Company, receive direct from any publisher, magazines for wholesale distribution?

A. I was the local agent for the Publishers' News Company.

Q. Any other?

A. Those were the only magazines I recall receiving direct.

Q. What magazines were they?

A. The Butterick publications.

Q. The "Delineator"?

A. The "Delineator," the "Designer," "Motors Magazine"—I was wholesale agent for the "Mothers Magazine" and the Cook Publishing Company. They had a couple of magazines I was wholesaling for them, and we handled "Everybody's" and some other magazine.

Q. All this before you became distributor for the Curtis Company?

A. Yes, sir.

Q. And what sort of people did the "Delineator" appeal to, men or women?

A. It is a woman's magazine.

Q. Any others?

A. The "Motors Magazine" and "Designer."

Q. After you entered into a contract to become the wholesale distributor for the Curtis Company, did you take on any other magazines?

555

A. After I became——

Q. After you became the wholesale distributor for the Curtis Company, did you take on any other magazines wholesale?

A. I cannot recall any that I took on myself personally.

Q. What magazines do you handle now?

A. All magazines.

Q. Then you did take on some after you began handling Curtis, did you not—if you are handling all magazines, you must have.

A. That is, the company of which I am a partner, handles all magazines. My company is known as the Carroll Brothers.

Q. Did you ever get permission from the Curtis Company to handle other magazines, since you have been under contract with them?

A. I cannot recall that I did; no, sir.

Q. Did they ever object to your handling any other publications?

A. I believe a clause in my contract states I shall notify them before taking on any other magazines.

Q. Did you notify them in all cases?

A. No, sir.

Q. Did they ever object?

A. I believe last February I received two form letters from the Curtis Company calling our attention to a clause in the contract stating that we should not handle any other publication.

Q. Stating that you should not handle any other publication?

A. Yes, sir.

Q. Prior to receiving those letters, did you try to handle any other publications?

A. Not personally; no, sir.

Q. What do you mean by "personally"—did your Company?

A. We handled any publication that came to us; that is, when a publication comes to me, I turn it over to my partners and they handle it.

Q. Did you ever handle the "Pictorial Review"?

A. Our company handled a couple of issues.

Q. Do you handle it now?

A. No, sir; we do not. We only supply a few that go to concerns that do not deal with us who do not purchase from the American News Company.

Q. That are affiliated with your concern?

A. No, sir; they only purchase their magazines from us.

Q. Retailers that you serve?

A. That the American News Company does not serve.

Q. Generally, did you wholesale the "Pictorial Review" to all retailers in your town?

A. No, sir; we purchased from the "Pictorial" agent in that town, and I sell them to what I call my own dealers.

Q. Now, you say you did handle the "Pictorial Review" for a couple of issues?

A. Yes, sir.

Q. Since that you have stopped, have you not?

A. That is, we stopped supplying all dealers.

Q. Can you give the reason for stopping?

A. I was given to understand that I had a signed contract with the Curtis Company, and that handling any other publication was not desirable.

Q. Who gave you the notice?

A. I think I had a telephone message and an interview with Mr. Flanders.

Q. One by phone and one by person?

A. I would not say that he mentioned the "Pictorial Review" explicitly, but I had two occasions on which I was notified that the handling of any other

magazine without first consulting the Curtis Publishing Company, was not desirable to the company.

Q. When were these conferences held?

A. I should say that just prior to the first independent issue of the "Pictorial Review," a telephone conversation was had with Mr. Flanders.

Q. What did Mr. Flanders say to you in that telephonic conversation and personal conversation he had with you?

A. In the telephonic conversation I believe Mr. Flanders asked me whether I was going to handle—I will not say "Pictorial Review"—but some publication.

Q. He asked if you were going to handle the "Pictorial Review"?

A. It may be in the telephonic conversation——

Q. What did you tell him?

A. I told him I was not going to personally handle it. The publication had not come to the position of an independent issue at that time.

Q. When you say you told Mr. Flanders you personally were not going to handle it, were you speaking for your firm?

A. For myself. My firm is not under contract with the Curtis Publishing Company. I have the contract. It is a personal contract.

Q. What did Mr. Flanders say to you at the other conversation?

A. Mr. Flanders and myself went over the situation in general, and he just confirmed his previous statement.

Q. That it would be objectionable to the Curtis Company for you to handle the "Pictorial Review"?

A. If we handled—practically, if we violated the clause of our contract, it was objectionable to the Curtis Publishing Company.

Q. Did he say what would happen if you did that?

A. Prior to the first conversation it had happened.

Q. What do you mean by "it had happened"?

A. For not selling the quota issue of "The Ladies' Home Journal," my supply was discontinued.

Q. Do you know whether or not that had anything to do with your contemplated handling of "Pictorial Review"?

A. I was explicitly given to understand it was on account of the fact that I had not sold my quota number; that is, a guaranteed number.

Q. In this conversation that you had with Mr. Flanders, was it mentioned that your wife would sell the "Pictorial Review," or would not sell it?

A. I cannot remember.

Q. You would not say it did not happen?

A. I would not say it did not happen; no.

Q. Would you say it did, or have you any recollection of anything like that?

A. I have no recollection of the exact words.

Q. Give me the substance of about what happened in connection with your wife's handling it?

A. I believe Mr. Flanders informed me that not only a direct handling of any other publication, but an indirect handling was objectionable.

Q. Was your wife mentioned?

A. I think the indirect handling covered my wife's case.

Q. Did he use the word "wife"?

A. No, sir, I think not.

Q. Did he call your wife by name?

A. I do not think he knows her name.

Q. Have you any boys to which you sell magazines?

A. Yes; all boys that desire it.

Q. How many boys do you have to whom you supply magazines and newspapers?

A. I should say fifteen.

Q. Fifteen?

A. Yes, sir.

Q. To how many boys do you supply magazines?

A. I mean boys that we have. We have fifteen magazine boys.

Q. How many boys have you altogether—around about sixty?

A. Sixty or seventy.

Q. Of those sixty or seventy boys, how many would you say are so-called Curtis boys?

A. Ten or eleven.

Q. Ten or eleven?

A. Yes, sir.

Q. What do you mean by a so-called Curtis boy?

A. My particular definition of a Curtis boy varies from the average. Would you like my definition?

Q. Yes.

A. My definition of a Curtis boy is a boy that they send me.

Q. Do they also include boys whom they send you and who later handle Curtis and other publications?

A. That is, boys I obtain myself without the effort of the Curtis Publishing Company, to handle Curtis publications and magazines—I do not consider them Curtis boys.

Q. But the boys they are instrumental in obtaining for you, you consider so-called Curtis boys—is that it?

A. Yes, sir.

Q. Do any of these boys handle any other than Curtis magazines—I mean the so-called Curtis boys, these ten or eleven you spoke of?

A. Not from any effort of mine. I do not push other than Curtis magazines in connection with the boys.

Q. If they asked you to supply them with other magazines, would you do so?

A. Yes, sir.

Q. Have you ever received any money from the Curtis Company, for the obtaining or developing of so-called Curtis boys, developing them in this business? I mean, have you received any money from the Curtis Company for obtaining or, if you have obtained the so-called Curtis boys, developing them in this business?

A. I have in mind one dollar that I received.

Q. Are you the only wholesaler in your town of Chelsea, Massachusetts?

A. The American News Company sells magazines and the Hotel and Railroad News Company handles wholesale newspapers.

Q. Are you the only independent wholesaler of newspapers and magazines?

A. No, sir; the "Pictorial Review" have an agent.

Q. Do you know whether the "Pictorial Review" agent has any equipment?

A. There are two parties that distribute them—carry them under their arms.

Q. What equipment have you?

A. One team.

Q. What is the size of that town?

A. Forty odd thousand.

Q. How many "Posts" do you distribute a week?

A. Approximately 250.

Q. How many "Ladies' Home Journals"?

A. Approximately 200 to 225, varying with the season.

Q. How many "Pictorial Reviews" do you distribute—those two you spoke of—each issue?

A. The first issue I believe we distributed 100.

Q. And the second?

A. The second issue, 175 or 200.

Q. Did you supply all the retail dealers in Chelsea with magazines and papers?

A. I supplied all the retail dealers in Chelsea with all the magazines our company handles. We supply some dealers with all the magazines and supply all the dealers with certain newspapers and some dealers with all of our magazines.

Q. You do reach them all with magazines—you reach all the retail trade there either with newspapers or magazines?

A. Yes, sir.

Q. You do reach them all with magazines that are sent to you for distribution by independent magazine distributors, is that the idea?

A. Yes, sir.

Q. Do you follow up your work carefully, to see whether or not these retailers are supplied at all times?

A. We are in touch with all of our retailers daily.

Q. Daily?

A. Yes, sir.

Q. Do you know, from your own knowledge, whether the American News Company reaches all retail dealers of your town?

A. They cover their dealers.

Q. Do you know, of your own knowledge, whether all retail dealers of your town do business with the American News Company?

A. I know they do not.

Q. Do you know how many do not or how many do?

A. Seven do not.

Q. How many are in your town?

A. That handle all magazines, approximately sixteen.

Q. Approximately sixteen retailers in your town?

A. There are some retailers that handle only the Curtis publications exclusively.

Q. Do you charge anything for distributing magazines or newspapers to the retailers?

A. No, sir.

Q. Can you tell of your own knowledge whether the American News Company does?

A. I know they do. I know they charge me and every other dealer in my town.

Q. Do you know whether or not the American News Company keeps in daily touch with the news dealers, from your own knowledge?

A. I know they do not keep in daily touch, because they do not deliver on Saturday.

Q. Do you know whether or not they keep in touch with—whether retailers are sold out on any particular magazine, in order to replenish his stock—just state what you know about that.

A. If a dealer re-orders—gives a driver an order, he will bring the magazines. I do not know whether the driver inquires about other orders. I know he does not with me.

Q. As far as the stock you get from the American News Company is concerned, the driver does not inquire if you are sold out of magazines furnished by the American News Company?

A. Generally he does not.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. The contract with the Curtis Company is your personal contract?

A. I believe it is.

Q. That was made in 1913, is that correct?

A. April, some time.

Q. Before that time, had you ever dealt direct with the publishers of magazines in a wholesale way?

A. The Publishers News Company.

Q. Had you ever gone to the publisher of a magazine, such as "The Saturday Evening Post," and dealt direct with them, as their wholesaler, or was the Curtis case the beginning of that?

MR. SPIESS: I do not know whether there is anything in this case as any other magazine like "The Saturday Evening Post." I do not understand what is meant——

MR. MILBURN: The question is perfectly plain. Please read it.

(The stenographer repeated the question.)

MR. DALY: If the idea of the question is to bring out that Curtis was the first he handled in this particular way, I do not see how it would be admissible.

MR. SPIESS: The witness testified he did handle others.

MR. MILBURN: I can clear that up. I will withdraw that question.

By MR. MILBURN:

Q. Now, Mr. Carroll, you said for about the last twenty years—before 1913, you handled all magazines?

A. Not previous to 1913. I said the last twenty years.

Q. What?

A. The last twenty years.

Q. But not previous to 1913?

A. Not previous to 1913.

Q. Before 1913 and before you took up your Curtis contract, had you dealt straight with the publishers and gotten your magazines from them, or from the News Company? I am talking about you, yourself, personally.

A. I consider that I was dealing with the publishers when I dealt with the Publishers News Com-

pany. I considered the Publishers News Company the same agents of the publishers as I would consider Mr. Flanders. I understood when I took the contract, I was dealing with the publishers.

Q. You had a conference with Mr. Flanders on August 6th, 1917?

A. I could not say about that.

Q. In the summer of 1917, about this matter?

A. Probably.

Q. Did he not ask you how long you had dealt with the Curtis people?

A. He may have.

Q. I want your best recollection.

A. I should say he did.

Q. Did you not tell him then, that the Curtis publications were the first publications you handled in direct contact with the publishers?

A. Absolutely I did not. I told Mr. Flanders the same as I told you.

Q. Did you tell Mr. Flanders your brother had handled other magazines, but you personally did not?

A. I was in business with my brother.

MR. MILBURN: I move that the answer be stricken out.

A. I told him—I gave Mr. Flanders to understand, or tried to give him to understand, that I always considered myself a wholesale dealer in magazines before taking on the Curtis magazine.

Q. You did not want to give him the impression that the Curtis magazine was the first venture in that line?

A. No, sir.

Q. Do you mean to say that the sum of one dollar is all you received from the Curtis Company for extra services in helping to get and train boys?

A. I stated I had a recollection of receiving one dollar recently.

Q. I mean since you have had the agency.

A. Would you put that in the light of a salary or in the light of a bonus for increased sales?

Q. I do not care how you put it.

A. I do not know how you put it.

MR. SPIESS: We asked the specific question as to what he got for his service in obtaining and developing these boys to handle the Curtis publications exclusive of any service that he got these boys to render, and exclusive of any bonus. I was particular to get that in. We are trying to find out what he got for his services.

EXAMINER MOORE: What is your question?

MR. MILBURN: I asked if he ever received anything from the Curtis Company over and above commissions on actual sales.

MR. SPIESS: That is a different thing. I ask that the other question be stricken out.

MR. MILBURN: I withdraw the question.

THE WITNESS: I would say I had; in looking over my records, I found two or three occasions. There may have been other occasions that I overlooked.

MR. MILBURN: That is all.

RE-DIRECT EXAMINATION.

By MR. SPIESS:

Q. Mr. Carroll, you say you did receive money from the Curtis Company on two or three occasions outside of what you made on magazines, but is it a fact that your recollection is you only received about one dollar for the obtaining or developing of the Curtis boys, so-called?

A. The question is not clear in my mind.

Q. Let me see if I can make it a little clearer. Is it not a fact that you testified that you remember re-

ceiving about one dollar for your services in obtaining or developing Curtis boys to handle Curtis publications?

A. In 1914, the Curtis Publishing Company distributed an enormous amount of money to their agents.

MR. DALY: I move to strike that out.

MR. MILBURN: I object to striking that out.

MR. DALY: It is not responsive to the question.

MR. SPIESS: I want him to answer the question.

EXAMINER MOORE: Answer yes or no, and then you can explain it, if you desire.

MR. MILBURN: If he got an enormous amount of money, he got something extra.

MR. SPIESS: He did not say he got an enormous amount of money. He said the Curtis Company distributed an enormous amount of money to its agents.

Read the question, Mr. Stenographer.

(The question was repeated by the stenographer.)

THE WITNESS: I would say no. I received one dollar recently, the time I have in mind, under a new system that the company established. They used to give the sub-agent when he sold a number of copies, a dollar. Recently, they changed that and gave that dollar to the District Agent. That is the dollar I have in mind.

By MR. SPIESS:

Q. Then, will you please tell the Examiner, if you know, or can recall, receiving any money from the Curtis Company for obtaining Curtis boys, so-called?

A. I may have on occasions—on two or three occasions.

Q. Can you recall any particular occasion that you ever received any money for obtaining a Curtis boy so-called?

A. I can recall getting credit two or three times, for some such sums as one dollar.

Q. For going out and getting a Curtis boy?

A. We have a credit for—I do not know whether it was stated explicitly for going out and getting the boy or what it came from.

Q. Do you know whether you got this dollar on several occasions for the sales that these so-called Curtis boys made?

A. For the progress he made after we got him.

Q. Can you say whether or not you ever received any money for going out and getting a boy to enter the service to distribute Curtis publications?

A. I cannot.

MR. SPIESS: That is all.

---

MAX L. KATZE, was called as a witness on behalf of the Commission, and having been first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. SPIESS:

Q. Please state your full name?

A. Max L. Katze.

Q. Where are you in business?

A. Lowell, Massachusetts.

Q. How long have you been in business?

A. About twelve years.

Q. What kind of business are you in?

A. Wholesale newspapers and magazine agency.

Q. Are you under contract with the Curtis Publishing Company?

A. Yes, sir.

Q. How long have you been under contract with the Curtis Publishing Company?

A. Well, I have been under contract, I guess, for about seven years, but the agency has been taken away two or three times—I am not sure as to the number of times.

Q. Do you know why your agency has been taken away?

A. Well, it has been—it was on account of not selling my quota number of copies.

Q. Are you under contract with the Curtis Publishing Company?

A. Now.

Q. You say altogether you have been under contract with them seven years?

A. Yes, sir.

Q. Prior to that time, what did you wholesale?

A. Newspapers.

Q. Any magazines?

A. No, sir.

Q. After you started to handle the Curtis publications, did you take on any magazines?

A. Yes, sir.

Q. From independent publishers—that is, publishers who were sending you direct?

A. Yes, sir.

Q. What publications were they?

A. Well, the Hearst publications, "Collier's," Butterick publications, "Munsey's," "Digest," "Pictorial"——

EXAMINER MOORE: You mean the "Literary Digest"?

MR. SPIESS: You say Butterick. What publications are they?

THE WITNESS: "Delineator," "Designer" – "Woman's Adventure"; four or five of them.

Q. Are you wholesaling them now?

A. No, sir.

Q. Why not?

A. They went back to the American News Company.

Q. Did the Curtis Company ever object to your handling the "Delineator"?

A. No, sir.

Q. You are now handling the "Pictorial Review"?

A. Yes, sir.

Q. How long have you been handling it?

A. Ever since they went to the independent agents.

Q. The Curtis Publishing Company, either through correspondence by agents direct, objected to your handling the "Pictorial Review"?

A. I believe they did.

Q. State in what way, if you can, they objected to your handling the "Pictorial Review"?

A. Well, I believe I received letters to that effect.

Q. Have you copies of those letters?

A. No, sir.

MR. SPIESS: It is stipulated in the record that Mr. Katze received circular letters Nos. 1 and 2, inclusive, incorporated in the record hereinbefore.

MR. MILBURN: You remember receiving them?

THE WITNESS: Yes, sir.

MR. MILBURN: That is all right.

By MR. SPIESS:

Q. Did you ever receive a personal visit from Mr. Flanders in reference to your not handling the "Pictorial Review"?

A. I do not believe I have.

Q. Did you ever call on Mr. Flanders in reference to this?

A. Yes, sir.

Q. When?

A. Prior to the time of taking your "Pictorial Review."

Q. Prior to that?

A. Yes, sir.

Q. State, as far as you can, the substance of that conversation you had with Mr. Flanders.

A. Well, I cannot recollect the conversation. It was pertaining to "Pictorial Review."

Q. Did you tell him you were going to handle it?

A. Yes, sir.

Q. What did he say?

A. I cannot recall.

Q. Can you recall—I do not mean the exact words—did he object to your handling it at this conversation?

A. He—well, I was undecided myself about taking it on, and then I decided to take it on. I believe that is the way the conversation went. I was undecided when I left Mr. Flanders.

Q. Did he object—did he say it would be objectionable to the Curtis Company for you to handle it?

A. Yes, sir.

Q. To handle the "Pictorial Review"?

A. Yes, sir.

Q. Did he tell you that you would lose your agency if you did?

A. Well, I do not think he put it that way. I think he called my attention to the clause in the contract.

Q. You mean clause 13?

A. Yes, sir.

Q. Did he say anything to you about your bond—call your attention to your bond?

A. Yes, sir; I presume it was that—the bond and contract.

Mr. Milburn: I object to presuming this, and ask that that answer be stricken out.

By Mr. Spiess:

Q. What is your best recollection as to any question that Mr. Flanders made as to your security or cash bond that you may have had up under this contract?

A. I cannot recollect the bond, but I recall he said the contract was practically void.

Mr. Milburn: Do I understand the reference to the bond is stricken out?

Examiner Moore: Do you withdraw the question?

Mr. Spiess: I will explain it, and ask for a ruling. He states that Mr. Flanders called his attention to the contract, and stated if he handled "Pictorial Review," his contract would be void. Under the contract he is bonded, and if his contract would be void, then, as a matter of consequence, he would have been in danger of forfeiting his bond, and I think it is relevant; that we can go into this matter.

Mr. Milburn: Mr. Stenographer, please read the record back there.

(The stenographer repeated a portion of the record.)

Examiner Moore: Let the last question and answer be stricken out, and the next question will stand. That is responsive.

Mr. Spiess: He has answered that.

By Mr. Spiess:

Q. Now, was anything else said to you by Mr. Flanders in reference to your not handling the "Pictorial Review"?

A. No, sir; I do not believe there was.

Q. Are you still handling "Pictorial Review"?

A. Yes, sir.

Q. Has any effort been made on the part of the Curtis Company, either by correspondence or through

these agents, to stop you from handling "Pictorial Review"?

A. No, sir.

Q. Are you the only wholesale distributor, outside of the American News Company, in Lowell?

A. The only wholesale independent; yes, sir.

Q. Have you any boys' service?

A. Yes, sir.

Q. How many boys have you?

A. Newspapers and magazines?

Q. Both.

A. About 125.

Q. Of this number, how many so-called Curtis boys have you?

A. What do you mean by "Curtis" boys?

MR. SPIESS: I will withdraw the question.

EXAMINER MOORE: The question is withdrawn.

By MR. SPIESS:

Q. Do you know what a so-called Curtis boy is?

EXAMINER MOORE: Read that question, Mr. Reporter.

(The reporter read the question.)

By MR. SPIESS:

Q. Just give me your idea of what a Curtis boy is.

A. Yes.

Q. Do you understand what I mean?

A. The Curtis boy is a boy that the Curtis people advertise in the newspaper for, I presume.

Q. And turn them over to you?

A. They advertise in local newspapers, and the boys answer the ads. Of course, they have the District Agent's name and address.

Q. Now, how many boys have you got that handle the Curtis publications exclusively?

A. I guess about ten.

Q. You stated you had 150 boys altogether?

A. No; 125.

Q. The rest of the boys handle newspapers and other magazines, including the Curtis magazine?

A. Yes, sir.

Q. Have you ever received any money from the Curtis Company for obtaining or developing these so-called Curtis boys?

A. I have received money from increasing sales.

Q. I do not mean that. Have you ever been paid money by the Curtis Company for going out and getting a boy to handle the Curtis publications?

A. About three months ago I was.

Q. How much did you receive?

A. About eight dollars, I believe.

Q. Now, what was that eight dollars for? Just state in your own way what it was for?

A. If the boy that I got sold forty or fifty copies—if I got a new boy that would sell forty or fifty copies——

Q. Of what?

A. Of "The Saturday Post."

Q. Every week?

A. No; if a new boy—if I got a new boy and could keep him on until he sold forty copies, I would receive a dollar from the Curtis Publishing Company.

Q. One dollar?

A. Yes, sir.

Q. Then you kept this boy on long enough and received this eight dollars?

A. It was eight boys.

Q. Can you give the approximate time it took these boys to sell these forty copies?

A. It perhaps took some four weeks and perhaps some it took more—five weeks or six weeks.

Q. But it ranged over a period of four to six or seven weeks?

A. I believe it did.

Q. Did you ever receive any other money from the Curtis Publishing Company for obtaining boys?

A. No, sir.

Q. Now, I will ask you, do you consider this money received from the Curtis Company for obtaining boys, or whether or not it was money that you received when a boy had performed a certain amount of services for the Curtis Publishing Company?

MR. MILBURN: I object to that question on the ground it is calling for a characterization on the part of the witness, of something done by the Curtis Publishing Company.

MR. SPIESS: I withdraw the question.

By MR. SPIESS:

Q. Have you, on any occasion, received any money from the Curtis Company when you obtained a boy to handle their publication?

A. Not prior to that time.

Q. I did not mean that—just get my question straight.

A. Yes, sir.

Q. Did you ever receive any money from the Curtis Company for obtaining a boy to handle the Curtis publications prior to the time that he did handle these publications—probably I have not made myself clear enough. I will restate it. Did you ever receive any money from the Curtis Company for obtaining a boy irrespective of whatever service the boy was to perform for the Curtis Company?

A. No, sir.

Q. It was always conditioned on the boy doing something in the way of sales—is that it?

A. Yes, sir.

Q. Did you ever receive any money for lecturing these boys and telling them about selling the Curtis publications?

A. No, sir.

Q. What equipment have you for distribution?

A. Automobiles and teams.

Q. How many "Saturday Evening Posts" do you distribute every week?

A. 1050, I think.

Q. How many "Ladies' Home Journals"?

A. 700.

Q. How many "Pictorial Review"?

A. 300.

Q. When you first began handling "Pictorial Review," how many did you distribute?

A. I believe that was my drawing at that time.

Q. Did you have an increase, if any?

A. I believe it is 500 on the last.

Q. 500 now?

A. Yes, sir.

Q. From the time you began handling "Pictorial Review" to the present time, you have increased your number of monthly "Pictorials" from 300 to 500?

A. I cannot say I increased. That is my drawing.

Q. What were your drawings last month?

A. 500.

Q. Did you sell all of them?

A. I do not know until I get my returns.

Q. How about the month previous?

A. That was 300.

Q. You have increased now up to 500?

A. Yes, sir.

Q. How many retailers are there in Lowell?

A. Sunday and daily?

Q. Retail news dealers.

A. Retail news dealers, there are about 400.

Q. Of that 400 how many do you supply with papers and magazines?

A. 50 or 60.

Q. Who supplies the rest?

A. Well, I supply them all, but I do not supply every dealer with magazines.

Q. I mean newspapers or magazines—you supply them all with one or the other?

A. I supply—there are 400 dealers that get Sunday and 200 that get daily and Sunday.

Q. What do you mean by dealers?

A. News dealers.

Q. The boys on the streets?

A. No, sir; just stores.

Q. You reach all either with papers or with magazines?

A. Yes, sir.

Q. Can you state from your own knowledge, how many the American News Company reaches?

A. They do about ten per cent. of the business in the magazines that I carry, and I do about ninety per cent.

Q. Do you make any charge to these retailers for delivering to them?

A. No, sir.

Q. Can you state, of your own knowledge, whether the American News Company does?

A. Yes, sir.

Q. They do?

A. Yes, sir.

MR. SPIESS: That is all.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. The question of a bond came up. Your bond has never been canceled?

A. No, sir.

Q. Or forfeited, rather?

A. No, sir.

Q. The company has not forfeited your bond?

A. No, sir.

Q. You have 125 boys?

A. Yes, sir.

Q. How do you get most of them?

A. By trolley cars.

Q. No—how do you get them? How do you use the two of them to do this business?

A. Well, they generally come to the place or we go after them.

Q. And in your district the Curtis Company advertises for boys to report to you, do they not?

A. Yes, sir.

Q. About how many boys of the 125 came to you from that source?

A. How many boys of the 125?

Q. Of the 125 came to you in answer to Curtis's advertisements; do you know?

A. I could not say.

Q. Well, just approximately?

A. I do not know.

Q. How many boys do you report—you report to the Curtis Company every week?

A. Yes, sir.

Q. How many boys do you report on?

A. About 25 or 30.

Q. And those are all the boys that sell Curtis publications?

A. Not all, no, sir. About ten out of thirty, I believe, sell just Curtis publications.

Q. 25 or 30 all sell Curtis papers?

A. Yes, sir.

Q. And you report the number of papers they sell to the Curtis Company?

A. Yes, sir.

Q. When you get a boy for the Curtis Company, you were not paid the dollar until after he sold 40 copies; is that correct?

A. Yes, sir.

Q. You have increased your drawing of the "Pictorial" from 300 to 500 copies?

A. I have increased the drawing; yes, sir.

Q. You do not know whether you have increased the sales yet?

A. No, sir.

Q. Before you went into this business, were you ever a retail news dealer?

A. No, sir.

MR. MILBURN: That is all.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. Is there a demand for the "Pictorial Review" in your city?

A. I beg pardon?

Q. Is there a demand for the "Pictorial Review" in your city, or do you create the demand?

A. We have to create a demand on all magazines.

---

L. H. COOPER was called as a witness on behalf of the Commission, and having been first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. SPIESS:

Q. What is your address, Mr. Cooper?

A. Attleboro, Massachusetts.

Q. What is the population of that town?

A. About 18,000.

Q. What is your business?

A. News dealer—magazines, cigars, tobacco and confectionery.

Q. What business are you engaged in in a wholesale way?

A. Tobacco, cigars and newspapers.

Q. Any magazines?

A. Just the Curtis Publishing Company's magazine.

Q. How long have you been wholesaling newspapers?

A. About twenty years.

Q. How long have you been wholesaling the Curtis publications?

A. I think since 1909.

Q. Prior to 1909, did you ever wholesale any other magazines?

A. No, sir.

Q. Since entering into a contract with the Curtis Company, have you ever wholesaled any other magazines but theirs?

A. Yes, sir.

Q. What were they?

A. "Munsey's" and "Hearst's."

Q. Is that all?

A. That is all I remember.

Q. Did you know Clause 13 in their contract at the time you took on "Hearst's" and "Munsey's"?

A. Yes, sir.

Q. Did you ask the Curtis Publishing Company for permission to take them on?

A. I did not, on those two.

Q. Did they object to your handling those two publications?

A. No, sir.

Q. Did you ever handle the "Pictorial Review"?

A. No, sir.

Q. Did you ever try to handle it?

A. I wrote them about it.

Q. You wrote the Curtis Publishing Company?

A. Yes, sir.

Q. Will you explain why you wrote the Curtis Publishing Company about the "Pictorial"?

A. On account of that clause. I will not say I did not handle the Red Star before Curtis.

Q. Munsey publications?

A. Yes, sir.

Q. You are under the impression you did?

A. I think I did.

Q. Then you would change your reply that you never did handle any other magazines before you handled the Curtis magazines?

A. Yes, sir.

Q. Why did you write to the Curtis Company in reference to handling "Pictorial Review"?

A. Well, I got a letter from the "Pictorial Review" and from the "Literary Digest" about the same time, asking me to take the agency, and I wrote the Curtis Publishing Company about it.

Q. When was that?

A. About the time the "Pictorial Review" went independent, I think.

Q. I show you a letter dated Attleboro, Massachusetts, March 2, 1917, signed L. H. Cooper, and ask you if that is a letter you wrote to the Curtis Publishing Company (handing paper to witness)?

A. Yes, sir.

Q. I now show you a copy of a letter dated March 8, 1917, signed by the Curtis Publishing Company, and ask you if that is the reply you received to your letter of March 2nd?

A. Yes, sir, I think that is it.

MR. SPIESS: I offer these two letters in evidence.

MR. MILBURN: We have no objection.

EXAMINER MOORE: The letters are admitted, without objection.

(The letters referred to were thereupon received in evidence and marked by the stenographer, "Commission's Exhibits Nos. 61 and 62," and are as follows):

COMMISSION'S EXHIBIT No. 61.

"Attleboro, Mass., March 2, 1917.

Mr. M. E. Douglas,

Dear Sir:

The Pictorial Review and Literary Digest have both offered me the Agency for Attleboro. They want me to furnish dealers but not boys. How about it?

Yours truly,

(Signed) L. H. COOPER."

---

COMMISSION'S EXHIBIT No. 62.

"March 8, 1917.

Mr. L. H. Cooper,

31 Park Street,

Attleboro, Massachusetts.

Dear Mr. Cooper:

In reply to your letter dated March 2:

Our mutual interests, yours and ours in common will be best served by your not making any arrangements to wholesale The Pictorial Review.

One fundamental fact stands out prominently. There is a limit to the number of periodicals seeking circulation among readers of the same class which a District Agent can handle without taking on the limitation of a branch of the News Company. We have District Agents because we need representatives free from such limitations.

That you may get our exact shade of meaning, let me quote from a letter recently mailed to a Curtis District Agent in another state, of whose

loyalty to us we were not wholly confident as we are of your loyalty.

In this letter to the other District Agent, we said:

> 'If you undertake it (wholesaling the other periodical mentioned), directly or indirectly, we should wish to cancel your arrangements with us.'

There is nothing temporary or uncertain about our policy of continued direct supplies to District Agents, including you, in accordance with our contracts: And our mutual interests, yours and ours alike, will be best served by the maintenance of methods and policies above mentioned.

At your convenience in the course of a few days, we shall be very glad to have you tell us what is your preference with respect to the continuance of the very pleasant relations which have so long existed between us.

We are much interested in any increased local effort for larger sales of THE COUNTRY GENTLEMAN and are willing and anxious to pay handsome, liberal bonuses for increases in net sales of THE COUNTRY GENTLEMAN during months to follow.

With kind personal regards,

Very truly yours,

THE CURTIS PUBLISHING COMPANY.

*President.*

Dictated by MED SM."

By MR. SPIESS:

Q. After you received this letter of March 8th, 1917, Commission's Exhibit No. 62, what did you do in reference to the "Pictorial Review"?

A. One of the men that worked with me took it on himself.

Q. You did not?

A. No, sir; not personally.

Q. Did the man who took it on have any equipment for the delivery of this magazine to retailers?

A. Only what I furnished.

Q. Are you the only wholesaler in your town?

A. Yes, sir.

Q. At the time the Curtis Company objected to your handling the "Pictorial Review," did they object to your handling the "Literary Digest"?

A. No, sir.

Q. Can you state, of your own knowledge, whether or not it would require more of your time to put out the "Literary Digest" than it would the "Pictorial Review"?

A. No, it would not.

Q. It would not require as much time with the "Literary Digest" or the "Pictorial"?

A. It would not take much time anyway.

Q. Either case?

A. Either case, yes, sir.

Q. The "Literary Digest" is a weekly magazine?

A. Yes, sir.

Q. And the "Pictorial" is a monthly magazine?

A. Yes, sir.

Q. Have you any boys that you deliver your publications to?

A. Newsboys.

Q. Is that all you have?

A. Yes, sir.

Q. Do you know what the so-called Curtis boy is?

A. Well, I should think, as the other witness said, it was a boy advertised for by the Curtis Publishing Company by them and sent to me.

Q. Have you any of those boys?

A. I think I have two.

Q. How many boys have you altogether?

A. About thirty.

Q. Did you ever receive any money from the Curtis Company for getting boys?

A. No, sir.

Q. Did you ever get any money from the Curtis Company for lecturing to these boys on how to properly sell Curtis publications?

A. No, sir.

Q. Do you know how many retail dealers there are in Attleboro?

A. There are only five that I know of.

Q. You supply all of them?

A. Yes, sir.

Q. Do you know whether or not the American News Company supplies all of them?

A. The Rhode Island News Company, a branch of the American News Company, supplies part of them.

Q. They are in Attleboro too?

A. No, sir.

Q. Where are they?

A. In Providence.

Q. How far is Providence from Attleboro?

A. Twelve miles.

Q. How do the American News Company deliver?

A. Either trolley, express or overland express.

Q. Who pays the bill?

A. The dealer.

Q. Do you make a charge for your deliveries to the retailers?

A. No, sir.

Q. Do you make it a business, on the Curtis publications, to go around and see that these dealers are supplied with Curtis publications?

A. Yes, one of my boys does.

Q. Did you or did you not do this in order to see that the retailers have always on hand an ample supply of Curtis publications?

A. No; they sent after them if they want more.

Q. You do not make that a business to do that?

A. No, sir.

Q. Does the American News Company, to your knowledge, do that?

A. No, sir.

MR. SPIESS: That is all.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. Mr. Cooper, you said that you were a little doubtful in your recollection as to whether you began your wholesale magazine business with the Curtis publications?

A. I am. I do not know whether I had any of Munsey's stuff before that or not.

Q. You had a conversation and talked this over with Mr. Lynne, who is one of the men of the Curtis Company, did you not, who came down to see you on August 17?

A. I do not remember. He may have had a talk with my boy, who handles this business.

Q. He did not have a conversation with you?

A. I do not think so.

Q. Was it not referred to at all, from your recollection, that you had never handled any magazines before you took on the Curtis magazine in a wholesale way?

A. I do not know.

Q. You are not certain in your mind whether you took on the Munsey first or the Curtis publications first?

A. No, sir.

Q. Have the Curtis roadmen aided you in getting boys or produced any boys for you?

A. No, sir.

Q. And one of your men now handles the "Pictorial" in your vicinity?

A. Yes, sir.

Q. Do you do it in your place of business?

A. Yes, sir.

Q. When you took this agency, how many boys did the Curtis people turn over to you, if any?

A. No; I do not think there was an agent—yes, there was an agent there and he worked four or five days gettings boys, but I cannot say how many he left.

Q. I did not quite hear that. Will you repeat that?

A. When I took it over, there was an agent from the Curtis people there who stayed four or five days.

Q. While you were establishing the agency?

A. Yes, sir.

Q. And helped to get boys to start it going?

A. Yes, sir.

Q. And they have, at times, advertised for boys and given them to you?

A. Yes, sir.

Q. And you report back, as part of your duties, the number of boys you have?

A. Yes, sir.

RE-DIRECT EXAMINATION.

By MR. SPIESS:

Q. In view of all this work that the Curtis road-men have done, it is your testimony, is it not, that you have only two Curtis boys?

A. If you mean boys that sell nothing but Curtis publications, yes.

RE-CROSS-EXAMINATION.

By MR. MILBURN:

Q. How many boys do you report on an average every week to the Curtis Company?

A. I think there are about fifteen.

Q. All those fifteen boys are distributing and active in the sale of Curtis publications?

A. Yes, sir.

By Mr. Spiess:

Q. And other publications?

A. Yes, sir; and other publications.

---

Myer J. Reiser was called as a witness, and having been duly sworn, testified as follows:

Direct Examination.

By Mr. Daly:

Q. You live in Boston, do you not?

A. 1901 Howershaft Street, Roxbury, Massachusetts.

Q. You are engaged in doing what?

A. Wholesale distribution.

Q. Of what?

A. Magazines and newspapers.

Q. What magazines are they?

A. Well, I handle all the Hearst publications, "Collier's Weekly," "Literary Digest," and some German magazines, "Pearson's," Curtis publications and the New York papers.

Q. How long have you been engaged in that business?

A. Nineteen years.

Q. You state you handle the Curtis publications?

A. Yes, sir.

Q. How long have you handled them?

A. For fourteen or fifteen years.

Q. And you have the usual contract with the Curtis Company?

A. Yes, sir.

Q. Do you know whether or not there is a restrictive clause in that contract which requires you to get permission of the Curtis Company before you purchase other magazines?

A. There is some clause. It might not be the same as in others.

Q. You know there is such a clause?

A. Yes, sir.

Q. What territory do you cover?

A. Greater Boston and the City of Boston.

Q. You mean the suburbs?

A. I did cover the suburbs after Mishara was through, but not for the past four or five weeks. I have just covered the city of Boston.

Q. What do you mean by "Mishara was through"?

A. When he quit handling the Curtis publications, I started to take in the outside territory.

Q. You do not handle the Curtis publications in those suburban places now?

A. No, sir.

Q. What equipment have you for handling these publications?

A. Oh, about five machines and two wagons; sometimes we hire extra wagons. It depends on how far you are. We have five machines and two wagons, any way.

Q. You have had them for a considerable period of time; have you?

A. Yes, sir.

Q. What equipment did you have when you took on the Curtis publications?

A. Is it necessary for me to answer? I would not answer if it is possible for me to avoid answering, because simply I think that is my own business, and I would not want it, if you do not object.

Q. I will withdraw that question for the present.

Do you sell magazines to retailers—is that the way you do business?

A. Yes, sir.

Q. Will you explain to the Examiner how you get these magazines to the retailers?

A. By delivery to every news dealer and eighty-five per cent. of the boys direct to their houses and every store where they are located. Some are delivered to newspaper corners.

Q. Leave out the boys. How do you get to the retailers?

A. By my delivery system; machines and wagons.

Q. Do you follow up deliveries?

A. Yes, sir; seven days a week follow up.

Q. How do you do that?

A. Because I have enough quantity on hand to make a seven-day delivery.

Q. And it is for the purpose of following up to see if everything is distributed properly?

A. Yes, sir.

Q. Outside of that, what do you do about boys—how do you handle that end?

A. Whatever is necessary to make delivery to them direct, I make. Some of them come to the office.

Q. About how many?

A. About fifteen per cent.

Q. How many boys are connected with your organization?

A. About 2100.

Q. They cover Boston, do they?

A. Boston—they cover some suburbs also.

Q. What other boys have you in Boston? Are you the big wholesaler in Boston or not?

A. I do not know one that has any other boys.

Q. How many of the 2100 boys are exclusively Curtis boys; that is, the so-called Curtis boy; that is to say,

as defined here, that were turned over to you by the Curtis Publishing Company?

A. Do you want to get back to what was turned over by the Curtis Company, or remain at the present time Curtis boys?

Q. The original turn-over—how many were turned over to you when you made this contract?

A. There were about four.

Q. How many are there now?

A. At the present time there is none.

Q. All the remainder of these 2100 boys are boys that go out and sell papers and magazines—is that correct?

A. Yes, sir.

Q. Were you ever asked to handle the "Pictorial Review"?

A. No, sir.

Q. Did you ever make an inquiry about handling it?

A. I did; yes, sir.

Q. Did the Curtis Publishing Company know about that?

A. I do not know whether they did or did not. I never got it.

Q. Did you ever receive a notice from them, either in the form of a circular or by letter, advising you as to the contents of your contract, with special reference to the restrictive clause in it?

A. I did, but I did not take much notice of it.

Q. You got the letter?

A. Yes, sir.

Q. Do you remember when that was?

A. Just about the time the different publications were breaking away, and probably the "Pictorial Review" was one of them.

Q. That was last spring some time?

A. Yes, sir.

Q. Do you charge your retailers for delivering these magazines to them?

A. No, sir.

Q. Do you know whether the American News Company does in your territory?

A. Yes, sir.

Q. How many news dealers do you reach?

A. I reach on an average of about 600.

Q. How many are there in Boston?

A. In Boston there are about 400.

Q. Where are the others?

A. They are fifteen or twenty miles from Boston—spread around there.

Q. Do you know whether the American News Company covers all these dealers that you cover?

A. No, sir.

Q. About what part do they cover?

A. Well, I could not exactly tell the percentage they cover.

Q. About what?

A. I know they do not cover them all.

Q. In giving out the magazines to these concerns, is it necessary to do a lot of work to get them out?

A. If you want to get the business, you have to.

Q. You have to go out with your organization?

A. Yes, sir; it requires a good deal of promotion work.

Q. You do a great deal of promotion work?

A. Yes, sir.

Q. Can you tell us about that?

A. We will go up to a man and find out if he is on friendly terms, and if he is not on friendly terms towards each man, you want to find out his weak spot and smooth it out. That is the reason I go out in the city of Boston three times a week, and outside of Boston two times a month.

Q. When a retailer places his goods on his stand,

is it not an advantage to put them where the people can see them?

A. Yes, sir.

Q. And in the event it is not placed in that position, there are less sales; are there not?

A. Exactly.

Q. How much money have you ever received for training boys for the Curtis Publishing Company?

A. Well, I tell you—I do not believe in—I never did believe in accepting money for training boys, because I have always called it a hold-up game. I do not think an agent has the right to accept money when he handles four or five different publications or ten different publications, unless he works for one publisher. If he works for one publishing house, he will throw down some other.

Q. You would never take any money yourself?

A. I do not on this stuff. I never tried.

MR. DALY: That is all.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. You entered into this contractual relationship with the Curtis people in April, 1916?

A. Yes; that is the time they broke away from the American News Company.

Q. Prior to that, you were on the staff of the American News Company?

A. No, sir; I was in the position of purchasing from them.

Q. You worked for them?

A. No, sir; for myself.

Q. Did you work on a commission basis or salary basis, or what?

A. I handled the newspaper stuff on a salary basis, and the magazines were simply on a commission basis.

Q. Then you left that business and took up the Curtis agency?

A. Yes, sir.

Q. And it was the first agency for wholesaling magazines that you took?

A. No, sir.

Q. You, yourself?

A. No, sir; I handled other publications before. I handled "Collier's," and I have handled—oh, it must have been twenty or twenty-five off and on, during the past twenty years.

Q. You did that independently?

A. Yes, sir.

Q. Not as representing the American News Company?

A. No, sir; some of the publishers thought I was an American News Company man, but it was not so.

Q. I understood you to say that the Curtis people turned over to you only four boys?

A. Yes, sir.

Q. And now there are none?

A. Yes, sir.

Q. Is that your writing, Mr. Reiser? Did you write that letter (exhibiting letter to witness)?

A. I will answer you when I get through reading, if you do not mind.

Q. All right. Is that a letter written by your concern to the Curtis Publishing Company?

A. It is a letter signed by me.

Q. It is a letter written by your concern on your letterhead?

A. Yes; it is a letter signed by me.

MR. MILBURN: I offer that in evidence.

MR. SPIESS: Mr. Examiner, we object.

MR. DALY: The witness testified he signed this letter. Did you write the letter?

THE WITNESS: No, sir.

MR. DALY: This is a very remarkable situation.

MR. MILBURN: I think it is perfectly admissible and we offer it in evidence.

MR. DALY: We withdraw our objection.

MR. MILBURN: This letter reads that at the time "you turned over to me the several hundred sub-agents selling your publications, and since that time the business has materially increased by my efforts and with the co-operation of your salaried representatives."

THE WITNESS: It is not true, sir.

MR. MILBURN: I offer this letter in evidence.

EXAMINER MOORE: The letter is admitted without objection.

(The letter referred to was thereupon received in evidence and marked by the stenographer "Respondent's Exhibit No. 15," and is as follows):

RESPONDENT'S EXHIBIT No. 15.

(Letterhead Myer J. Reiser)

"258 Washington Street,
Boston, Mass., August 14, 1917.

Mr. M. E. Douglas,
The Curtis Publishing Company,
Philadelphia, Pa.

Dear Mr. Douglas:

Recently I have heard considerable discussion by publishers' representatives regarding the wholesaling of all magazines thru one independent agent in each city. It is my understanding that The American News Company was organized years ago for the purpose of distributing the magazines of the various publishers, most of which have availed themselves of this service.

For years I worked as a salaried representative of a branch of The American News Company and have seen many publishers fail to gain circulation thru independent distribution because the magazines were not right editorially or their plan of distribution was wrong. It takes years of time and the expenditure of lots of money to develop a magazine and it was because The Curtis Publishing Company's plan of independent distribution and promotion was properly organized, and the magazines right editorially, that your business has continued to prosper for so many years.

While working for The New England News Company I had an opportunity to see the way your independent distribution was carried on in Boston and I made application to your Mr. A. J. Holl for appointment as your Boston District Agent. About a year and a half ago I resigned a good salaried position and accepted your Boston District Agency. At that time you turned over to me the several hundred sub-agents selling your publications and since that time the business has materially increased by my efforts and with the cooperation of your salaried representatives.

For a considerable time after my appointment as your agent I wholesaled no publication but yours. After my delivery service was perfected and my Curtis Agency running smoothly I was often approached by representatives of other publishers to use my service to distribute their magazines. Many offers I have refused because the business opportunity offered didn't warrant the effort. I later did accept with your sanction the independent distribution of the following: Cosmopolitan, Hearst's, Good Housekeeping, Harper's

Bazaar, Colliers, Literary Digest and The New York Telegram. Thus you see the Curtis Company established me in business for myself. It is the backbone of my business—without it my wholesale business would hardly pay.

Very truly yours,

(Signed) M. J. REISER."

By MR. MILBURN:

Q. What equipment did you have when you went in business in 1916?

A. I owned the team of my own, and then I used to hire wagon service and automobile service, whenever it was necessary, for a certain day's delivery, but I found out in time it was cheaper for me to own my own.

Q. Did you have a conversation with Mr. Flanders, who sits beside me here, on August 4, 1917?

A. In regards to what?

Q. In reference to this Curtis publication—the handling of this Curtis Publishing business—the general business you carried on for the Curtis people.

A. I would like to have you refer me to which one.

Q. Did you say to him on or about August 4th, 1917, that you had never——

MR. DALY: When?

MR. MILBURN: In your office in Boston—that you had never wholesaled any other magazine before you took the Curtis publications?

A. Yes; the records are open in the New York offices that for many years I have dealt with Hearst's

---

Q. I ask you if you made that statement to him?

A. No, I did not.

MR. MILBURN: That is all.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. Now, learned counsel, Mr. Reiser, has introduced a letter in evidence dated August 14, 1917, and signed by you, and containing a number of paragraphs, marked "Respondent's Exhibit No. 15." Will you explain to the Examiner all the facts and circumstances surrounding the presentation of this letter to you and your signing it?

A. If you will just read off the letter so we can all hear it, I will explain it.

Q. I will read it to you.

(Letter read as spread on pages 595-597 of this record.)

Q. Did you prepare that letter?

A. No, sir.

Q. You signed it, did you?

A. Yes, sir.

Q. Tell the Examiner all the facts and circumstances surrounding the presentation of this letter to you and your signing, and why.

A. Now, I tell you—and I want to get down to the plain truth and facts——

MR. MILBURN: I move to strike that out and suggest to the witness that he stick to the truth all the way through.

THE WITNESS: Well, I was away last summer about August and came back and the girl told me that the Curtis Publishing Company——

MR. MILBURN: Who told you that?

THE WITNESS: The stenographer.

MR. MILBURN: I move to strike that out.

By MR. DALY:

Q. The girl in your office told you?

A. Told me something—they came down and asked for one of my letter-heads.

MR. MILBURN: I ask that that whole answer be stricken out so far.

By MR. DALY:

Q. Now, who presented that letter to you?

A. Mr. Flanders.

Q. On the date that it was signed?

A. I could not tell you.

Q. Was this letter prepared in your office?

A. No, sir.

Q. You read the letter when you signed it?

A. Yes, sir.

Q. What did Flanders say to you as to why he wanted the letter?

A. He asked me to read it over and sign it as he wanted to send it to Mr. Douglas. I looked at it slightly and said, "It is poor policy to do that, but as a friend I will do it," figuring he wanted to get himself in right with Mr. Douglas.

MR. MILBURN: I move to strike that out.

EXAMINER MOORE: The objection is sustained and it is stricken out.

By MR. DALY:

Q. What else did he say to you about that letter?

A. There was nothing else to it.

Q. Did he tell you how Mr. Douglas wanted to use the letter?

A. Not that day.

Q. Did you talk to him later about it?

A. Yes, sir.

Q. What did he say to you then?

A. He said he wanted to use all the letters from the agents as possible, to show the evidence in Court, when the case came up.

Q. Did he say anything about wanting to use it before the Federal Trade Commission?

A. I do not think—as I say, I do not remember whether the trial was up in New York. I do not know what court it was or whether it was the Federal Trade Commission or what. I could not tell you.

Q. Are those statements in that letter correct, or is your other testimony correct?

A. My other testimony is correct.

Q. You gave it to Flanders as a friendly act?

A. Yes, sir.

Q. To be used in a court?

A. Not in a court. I would never allow it to be used in a court.

Q. You gave it to him as a friendly act?

A. Yes, sir.

Q. And afterwards you found it was to be used in court or something to that effect?

A. A few days later.

RE-CROSS-EXAMINATION.

By MR. MILBURN:

Q. You admit now that you willingly signed the letter that contained a whole fabric of untruth and gave it to him?

A. Yes, sir.

Q. Have you any expectation of being believed here?

A. Well, I——

MR. DALY: I object to that.

MR. MILBURN: I withdraw that. That is all.

MR. DALY: That is all.

EXAMINER MOORE: We will take an adjournment now until tomorrow morning at ten o'clock.

(Whereupon, at 5.15 P. M. an adjournment was taken to tomorrow, Wednesday, December 12, 1917, at 10.00 A. M.)

FIFTH DAY.

---

Boston, Massachusetts, December 12, 1917,
10 o'clock A. M.

---

Met pursuant to adjournment.

Present: Parties as before.

---

EXAMINER MOORE: Proceed, gentlemen.

GEORGE ERNEST MARTIN, called as a witness on behalf of the Commission, being first duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. What is your address, Mr. Martin?

A. Fall River, Massachusetts.

Q. And your general business?

A. General wholesaler of newspapers, periodicals and stationery.

Q. How long have you been in that business?

A. 27 years.

Q. How long have you handled these magazines and newspapers?

A. All the time.

Q. Have you a contract with the Curtis Company?

A. Yes, sir.

Q. When did you enter into that contract?

A. 1910.

Q. What magazines did you handle when you began operation with them?

A. I was wholesaling all magazines.

Q. Will you name some of them?

A. "Century," "Harper's," "Scribner's," "Ladies' Home Companion" and the "American Magazine."

Q. Prior to your doing business with them, how did you distribute your newspapers?

A. By wagon and street cars and boys--whichever way was the cheapest and most convenient.

Q. You sold to boys, did you?

A. Yes, sir.

Q. What kind of a corps of boys did you have—a large one or small?

A. We handled at that time, and do now, all the New York papers and out-of-town papers but two, and the carriers of the local papers come to us for such out-of-town papers as they need and such magazines as they have orders for.

Q. To whom did you sell your magazines?

A. Stores and boys.

Q. Are those the class of people that are termed retailers?

A. Yes, sir.

Q. How many retailers were there in Fall River at the time you took over the Curtis Company's publications?

A. There were about forty stores handling magazines.

Q. And you were dealing with all of those at that time?

A. All but about one or two.

Q. After you took on the Curtis publications, did you or not continue to deal with the same retailers?

A. Just the same.

Q. And you do today?

A. Yes, sir.

Q. After you had signed this contract, or at the

time, rather, that you signed this contract, did you know that there was a restrictive clause in it?

A. There was no restrictive clause in the first contract.

Q. When was that?

A. Some time in 1910.

Q. How long did you operate under the contract in which there was no prohibitive clause?

A. The first contract having a prohibitive clause was presented to me some time in the spring of 1911.

Q. Did you sign it?

A. No, sir.

Q. Why?

A. I objected to that clause.

Q. When did you sign a contract that contained a prohibitive clause?

A. Well, some time about the first of June, 1911.

Q. Do you remember the occasion of signing, or rather, what caused you to sign that contract?

A. Yes, sir.

Q. Will you relate the circumstances that led to your signing it, giving us the reasons?

A. The News Dealers' Association, of which I am president, held a meeting——

Q. Are you still president?

A. No, sir.

Q. You were then?

A. Yes, sir; in 1911. They held a meeting at the Christian Science Monitor Building——

Q. In Boston?

A. Yes, sir; and the purpose of the meeting, besides being an entertainment——

MR. MILBURN: I object to the reasons or the purposes of the meeting. He signed the contract, and the contract is before us.

MR. DALY: I will reframe that question.

By MR. DALY:

Q. Before signing the contract, did you converse with Mr. Douglas about it?

A. Yes, sir.

Q. Where was that conversation held?

A. At this meeting.

Q. Where?

A. At the Christian Science Monitor Building.

Q. What was going on there at that time—what was being held at that time?

A. A meeting of the Suburban News Dealers' Association.

Q. Mr. Douglas was present?

A. Yes, sir; he was a guest of the Association.

Q. What did Mr. Douglas say to you about this prohibitive clause in the contract?

A. He stated it would not be used against any of our members to restrain them from doing anything they might be able to do in the way of handling other publications.

Q. That is the reason you signed it?

A. With that understanding, I signed it.

Q. Have you obeyed the provisions of that contract with reference to the restrictive clause, or not?

A. I have not.

Q. Why?

A. Because of Mr. Douglas's promise.

Q. Acting under that promise that Mr. Douglas made?

A. I stated that I was an independent wholesaler and he——

Q. What has the Curtis Company done in your case with reference to the enforcement of that contract?

A. I do not remember just the date, but as I recall somewhere in July, 1912, the Butterick people formed

the Publishers News Company, and my contract was cancelled.

Q. By whom?

A. By Mr. Douglas, because I handled the Publishers News publications, at wholesale.

Q. What publications were they?

A. "The Delineator," "Designer," "Woman's Home Magazine" and "Everybody's."

Q. After that, did you get another contract with them?

A. Yes, sir.

Q. Is that the contract that you now have?

A. Yes, sir.

Q. What was done with that contract? Did it have a prohibitive clause in it, or not?

A. Yes, sir; the same clause.

Q. While you held that, did you have any trouble with Mr. Douglas or the Curtis Company with reference to it?

A. No, sir.

Q. The record shows that some time about February, 1917, there was a notice sent out with reference to this clause in the contract. Did you or not receive a notice from them in reference to it?

A. I did.

Q. That was a notice calling your attention to the restrictive clause—is that correct?

A. Yes, sir.

Q. Now, what happened after the receipt of that notice? Did you come in contact with any of the representatives or a representative of the Curtis Company with reference to it, or not?

A. With Mr. Flanders.

Q. What did he say to you about it?

A. I told him that I did not ask his permission to handle the "Pictorial Review"—I guessed that was what the notice referred to—and he did not object to

my handling the "Pictorial Review," and I did not ask that of him. I told him the "Pictorial Review" was going to be handled by me.

Q. What did he say about it?

A. Nothing.

Q. And you continued to handle the "Review" until now—is that correct?

A. Yes, sir.

Q. What other difficulty have you had with reference to handling publications, if any?

A. My present contract has been cancelled.

Q. Why was that cancelled?

A. I received notice dated four weeks ago Tuesday, reaching me four weeks ago tomorrow, by registered mail, that my contract would be cancelled after December 15.

Q. Do you know why you received that notice?

A. I came in to Boston at once to see Mr. Flanders and four weeks ago tomorrow I had a talk with him about it. His first reason given me was that I was not, and had never been, in sympathy with the clause in the contract about handling other publications. He said he felt he must have an agent who was.

Q. Did he give any other reasons?

A. He took up other reasons about Fall River not giving the amount of sales they thought they ought to have.

Q. Did he mention any other publications you were handling?

A. No, sir.

Q. The reason was you were not in sympathy with the restrictive clause?

A. Most of our conversation was on that point.

By Mr. Milburn:

Q. There were two reasons, one was the sales, and the other the restrictive clause?

Mr. Daly: Yes.

By Mr. Daly:

Q. Now, at the time that you took over the Curtis publications, you have testified that you had about how many boys?

A. At the time we took over the Curtis publications?

Q. Yes.

A. I have no record, but I should say, upon recollection, that they were nearly what they are at the present time.

Q. What is that?

A. We have nearly 100 boys.

Q. How many boys did the Curtis Company turn over to you at that time, if any?

A. There were very few Curtis boys at that time, as I remember. The business was not very well developed.

By Mr. Milburn:

Q. You live in Fall River?

A. Yes, sir.

By Mr. Daly:

Q. How many are there now?

A. Last week we put out within one or two of twenty-five.

Q. What do you term a Curtis boy?

A. A boy who handles nothing but a Curtis publication.

Q. What have you done about instruction or education of those boys as to handling papers or magazines?

A. Nothing.

Q. Have you received any remuneration from them for any work of that character?

A. No, sir.

Q. How about bonuses?

A. We have had bonuses for increased sales at times.

Q. These bonuses were not for the purpose of educating boys, but for the large sales some boys have made?

A. It is for the combined sales of the city and not for any particular boy.

Q. And that bonus comes to you?

A. Yes, sir.

Q. To the wholesalers?

A. Yes, sir.

Q. The Curtis people do some work about their boys—is that it?

A. Yes, sir.

Q. What do they do?

A. Their road man visits us whenever he is sent, and they circularize the boys and write letters to the boys, and offer them prizes. We give checks for the sales of five or over, by which the boys obtain prizes.

Q. How many members has your association, the association you spoke about at the beginning of your testimony?

MR. MILBURN: I object to it on the ground that it is incompetent, irrelevant and immaterial, and has nothing to do with this issue.

MR. DALY: I will change that question.

By MR. DALY:

Q. Were other wholesalers present when you had this conversation with Mr. Douglas?

A. Yes, sir.

Q. With reference to this contract?

A. Yes, sir.

Q. How many?

A. I could not say how many were wholesalers. There were, as I remember, about sixty men present at the meeting.

MR. MILBURN: I move to strike out the answer; who were present at the conversation is the question. I move to strike out the answer.

MR. DALY: I just want to know how many were there.

THE WITNESS: About sixty men.

By MR. MILBURN:

Q. That is, these sixty men were standing there talking with you, and could hear every word said?

A. They could hear every word as plainly as you and I can now.

By MR. DALY:

Q. How large a city is Fall River?

A. 125,000.

Q. Is there any other independent wholesaler in that city?

A. Not of magazines.

Q. Not of magazines?

A. No, sir.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. Mr. Martin, you stated in the early part of your testimony, that the local carriers came to you to get the newspapers, and in some instances, magazines?

A. Yes, sir.

Q. Now, are those local carriers the 100 boys you later referred to?

A. Yes, sir.

Q. Now, you have that branch of distribution, the local carriers, and also twenty-five or twenty-six of these boys?

A. They are handled entirely separately.

Q. You dealt, during the first year of your relationship with the Curtis Company, under a contract

that was not exclusive—did not contain the exclusive clause?

A. Yes, sir.

Q. Was it, in other respects, the same as the regular Curtis contract?

A. Yes, sir, it was the regular Curtis contract at that time, as far as I know.

Q. In June, 1911, you signed the contract with the exclusive clause?

A. At that time there were two contracts, one for the "Journal" and one for the "Post." I believe the "Journal" contract had the exclusive clause in it and the "Post" did not.

Q. And Mr. Douglas was there in 1911, and asked you to sign the exclusive clause contract?

A. Yes, sir.

Q. As I understand, Mr. Douglas asked you to sign it and said it would not be operative?

A. Well, yes, that was his statement to me.

Q. He asked you to sign the contract with the exclusive clause, and said he never would enforce it?

A. There were three points when we were discussing the whole contract. We did not agree on them and they were all adjusted.

Q. That contract had some changes from the prior contract under which you worked?

A. There was no change in the written contract.

Q. Except the inclusion of the exclusive clause?

A. There was no change in the contract as the result of my talk with Mr. Douglas.

Q. But you signed a contract, then, with the exclusive clause in it?

A. Yes, under the personal understanding with Mr. Douglas that that clause should not apply to any of the members of our association.

MR. MILBURN: I move to strike that out.

MR. DALY: Why?

THE WITNESS: I was acting for the association.

MR. MILBURN: I move to strike that out.

MR. DALY: Let it go out. I do not care anything about it.

EXAMINER MOORE: It is stricken out.

By MR. MILBURN:

Q. You did, at his request, sign this contract, and you signed it, you say, with the understanding that it would never be enforced against you?

A. Yes, sir.

Q. Why do you think he wanted you to sign it if he was not going to enforce it?

A. We discussed the thing very frankly as it stood. I was a general wholesaler of newspapers and magazines and I said I would not act with fear or favor of anyone. He said he recognized that fact, and in consideration of that——

Q. He took definite pains to get you to sign a contract which he said he was not going to enforce?

A. Yes.

Q. You say bonuses had been paid you for increased sales?

A. Yes, sir.

Q. Now, those increased sales are due to the increased efficiency of the boy staff, is it not?

A. More from the dealers than from the boys.

Q. But as the boys increase in efficiency, the sales will increase?

A. It has not proven so in our case.

Q. Is not the measure of the efficiency of the boys, the number of sales he makes?

A. Yes, sir.

Q. As the boy increases in efficiency, are not more papers sold?

A. Our boys have not proved very efficient, except in one or two cases.

Q. But you have not coached or educated them?

A. No, sir; I never trained them.

Q. You said in your direct examination you never educated them at all?

A. No, sir.

Q. You report on these boys and keep checks on them and send reports of that to the Curtis Company?

A. Yes, sir.

Q. Do you remember how many of these Curtis boys were turned over to you by your predecessor—by the man who had the agency before you?

A. Very few; I do not remember. I could not state the names of any. They were very, very few.

Q. How many?

A. Perhaps five or six; I could not tell exactly.

Q. In this report that you make every week to the Curtis Company, how many boys do you report on now?

A. As many as sell.

Q. How many was that?

A. I looked at the young lady's sheet last night and there were twenty-five last week.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. In reply to learned counsel in reference to what happened in this conversation with Mr. Douglas when others were present, your reply was "we discussed that thing," meaning you discussed the exclusive provisions of the contract. Whom did you mean by "we"?

A. As President, I talked for the men——

MR. MILBURN: I move to strike out "as President."

THE WITNESS: I talked with Mr. Douglas.

By Mr. Daly:

Q. Who else—anybody else discussing it besides you?

A. The men from the floor, at will.

Q. There were about how many there?

A. Sixty or seventy.

Q. There were three reasons, I think you said, that were given for not wanting to sign this contract?

A. Yes, sir.

Q. What were they?

A. One was the bond, the other was the quota, and the third was the restrictive clause.

Q. What do you mean by "quota"?

A. The clause of the agreement in reference to selling a stated number of copies of every issue.

Q. That was objectionable to you?

A. Yes, sir.

Q. Have you taken on the "Literary Digest" since this contract has been in force?

A. Yes, sir.

Q. Does it require you to take a quota number?

A. No, sir.

Q. Does any other magazine require that?

Mr. Milburn: I object to that. Is that material to our contract? We have not asked anything about that.

Mr. Daly: Do you object to it?

Mr. Milburn: I do not want to go into it with every dealer, and if we allow him to testify about that, we will have to go into it with every dealer.

Mr. Daly: The question is withdrawn.

Examiner Moore: The question has been withdrawn.

By Mr. Daly:

Q. Did you get permission from the Curtis Company when you took on the "Literary Digest"?

A. No, sir.

Q. When you took on any other magazine, did you get permission?

A. No, sir.

Q. When did you take on "Every Week"?

A. Two weeks ago yesterday I signed to take the agency.

MR. DALY: That is all.

EXAMINER MOORE: Is that all, Mr. Milburn?

MR. MILBURN: Yes, sir.

---

MOSES H. SCHLAFMAN, was called as a witness on behalf of the Commission, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Give your full name and address, please.

A. Moses H. Schlafman, 45 Washington Street, Haverhill, Massachusetts.

Q. How long have you been in the magazine business?

A. About fifteen years, sir.

Q. What magazines did you handle when you began?

A. I began with the Curtis publications.

Q. Did you have any other magazines when you began?

A. Not at that time, sir.

Q. Did you handle newspapers?

A. Yes, sir.

Q. You have had a Curtis contract, have you?

A. Yes, sir; more than one—two.

Q. Did you ever try to do any business with the "Pictorial Review," or did they try to solicit your services as their representative?

A. Yes, sir.

Q. When did they do that?

A. Well, three months ago.

Q. Now, you have the regular contract that we have been talking about, with this restricted clause in it?

A. Yes, sir.

Q. Requiring you to get permission from them before you took on another paper—is that correct?

A. I never studied their contract through very thoroughly, I am sorry to say, but I assume, with their initiative and money that they have expended, that I was sort of under a moral obligation to ask them.

Q. I did not ask about any moral obligations. I asked if you knew about that provision in the contract?

A. In a general way.

Q. You knew it was there, did you not?

A. Yes, sir.

Q. What happened when the "Pictorial Review" people asked you to take on their magazine?

A. I came in and asked Mr. Flanders if it would be all right to take it on, and he, not in so many words, did not say not to do it, but he gave me to understand he would feel better over it if I would not take the agency. He did not say that I must not take the agency.

Q. Did he say anything about your contract for that agency?

A. No, sir.

Q. Did you say anything about it to him?

A. No, sir.

Q. Did you take it on?

A. No, sir.

Q. You did not?

A. No, sir; I suggested another dealer to the "Pictorial Review" people; in fact, might I add something to that, sir?

Q. Certainly, go ahead.

A. In fact, the Curtis people, Mr. Flanders and Mr. Clay, who had my territory, thought all the time I had that agency, until I sent them a letter that the "Pictorial Review" people said to me, where it had clipped the dispatches of a repetition of the Washington newspapers commenting on the decision they got against the Curtis people. They thought all the time I had that agency. In fact, Mr. Flanders and Mr. Clay said that until they saw the letter, when they finally knew I was not handling the "Pictorial Review," they thought I had the agency.

Q. Mr. Flanders told you, notwithstanding that, in substance, that it would not please him if you took the contract, did he not—if you took the "Pictorial Review"?

A. It would not please him; yes, sir.

Q. Why did you go down to see him? Did you go down to see if you could handle it or not?

A. To find out if he would object to it. I did not want to make any enemies of the publishers at all.

Q. That is it. Did you write Mr. Douglas in reference to this matter at any time, about February 24, 1917?

A. No, sir.

Q. Will you look at that letter? (Handing letter to witness.)

A. I do not keep copies of my letters. I did not know that I had written him.

Q. Do you want to change your answer that you have just given?

A. Yes, sir; and I want to apologize for the answer. That is my letter I wrote Mr. Douglas asking permission to take it on.

Q. This letter is different from what you have testified?

A. Yes, sir; I did not have any copies of my letters, I see I was mistaken.

Q. What you have testified to was wrong?

A. Yes, sir.

Q. You forgot you wrote this letter?

A. Yes, sir; and for that I owe you an apology. I do not keep copies of my letters.

Q. Did you get this reply? (Handing letter to witness.)

A. Let me see it.

Q. I want to say to the witness that this is an inquiry by the United States Government, and that there is no controversy here between different publishers.

A. Yes, sir.

Q. You got that letter?

A. Yes, sir.

MR. DALY: We offer these letters. There is no objection, as I understand it?

MR. MILBURN: No, sir.

EXAMINER MOORE: The letters will be admitted in evidence without objection.

(The letters referred to were thereupon received in evidence and marked by the stenographer, "Commission's Exhibit No. 54," and the same are as follows):

COMMISSION'S EXHIBIT No. 54.

"Feb. 24, 17.

Dear Mr. Douglas:

Have today been offered the Pictorial Review Agency. Would like to accept it if you have no objection. I remember the clause in our contract, but they specifically don't want me to cater to boys, only want good news stand representation. They point out one of the biggest publishers consent to their agents handling it and as I have lot

more expense to my delivery, etc., without any of my prices going up I would like to handle same.

Yours truly,

(Signed) M. SCHLAFMAN.

It also would make me more independent and be able to keep the News Co. out."

---

"February 27, 1917.

Mr. H. Schlafman,
45 Washington Street,
Haverhill, Massachusetts.

Dear Mr. Schlafman:

In reply to your letter dated February 24:

Our mutual interests, yours and ours in common, will be best served by your not making any arrangements to wholesale the other periodical referred to.

One fundamental fact stands out prominently: There is a limit to the number of periodicals seeking circulation among readers of the same class which a District Agent can handle without taking on the limitations of a branch of the news company. We have District Agents because we need representatives free from such limitations. You are our valued representative because you have heretofore been free from such limitations.

That you may get our exact shade of meaning, let me quote from a letter recently mailed to a Curtis District Agent in another state, of whose loyalty to us we were not wholly confident as we are of your loyalty.

In this letter to the other District Agent we said:

'If you undertake it (wholesaling the other periodical mentioned), directly or indi-

rectly, we should wish to cancel your arrangements with us.'

There is nothing temporary or uncertain about our policy of continued direct supplies to District Agents including you, in accordance with our contracts, and our mutual interest, yours and ours alike, will be best served by the maintenance of methods and policies above mentioned.

At your convenience in the course of a few days, we shall be very glad to have you tell us what is your preference with respect to the continuance of the very pleasant relations which have so long existed between us.

We are much interested in any increased local effort for larger sales of THE COUNTRY GENTLEMAN and are willing and anxious to pay handsome, liberal bonuses for COUNTRY GENTLEMAN increases during months to follow.

With kind personal regards.

Very truly yours,

THE CURTIS PUBLISHING COMPANY,

*President.*

MED-SM."

By MR. DALY:

Q. Will you look at that letter? (Handing letter to witness.)

A. Yes, sir.

Q. You got that letter, did you not, Mr. Schlafman?

A. Yes, sir.

Q. Do you remember the letter you wrote, to which that is an answer?

A. Yes; I remember the letter. This is not the letter you showed me, was it?

Q. No; do you remember anything about the letter you did write?

A. No; I do not—honestly; no, sir.

MR. DALY: We offer this, with the understanding the other letter is to go in with consent of counsel, when it is found.

EXAMINER MOORE: The letter will be admitted under that understanding.

(The letter referred to was thereupon received in evidence and marked by the stenographer, "Commission's Exhibit No. 55," and the same is as follows):

COMMISSION'S EXHIBIT No. 55.

"FOR SALES DIVISION

Copy of Letter Sent from BOSTON

March fifth 1917.

Mr. Moses Schlafman,
Haverhill, Mass.
Dear Mr. Schlafman:

It is rather difficult to give you a more comprehensive reply to your March 4th letter than was contained in our February 27th communication replying to your letter of February 24th.

We realize as well as you do that certain cities have their own peculiar distribution problems. There are other cities aside from your own where the reasons advanced were as good if not better than yours. I am sure you will agree, however, that it is not good policy to make exceptions. If we did it for others and refused you you would have a just complaint. Surely you will agree, therefore, that it is to our mutual interests to refuse our sanction in your particular case.

I am glad to hear that THE JOURNAL is going well this month, also THE COUNTRY GENTLEMAN. The maximum profits from your Curtis Agency have not yet been reached and by the adoption of plans such as outlined in your letter I feel assured that you will increase your commission on all three

of our publications and earn a substantial bonus for sales of THE COUNTRY GENTLEMAN.

Very truly yours,

THE CURTIS PUBLISHING COMPANY.

RLF-RA"

By MR. DALY:

Q. When you took on the Curtis publications, did you handle newspapers?

A. Yes, sir.

Q. You have boys, have you not, Mr. Schlafman?

A. Yes, sir.

Q. How many boys have you?

A. Two hundred and fifty in all—newsboys and magazine boys.

Q. How many boys have you that are so-called Curtis boys?

A. Sixty, sir.

Q. What do you mean by "Curtis boys"?

A. Boys that handle exclusively Curtis publications. The most or the majority of the sixty Curtis boys, the Curtis people got for me.

Q. How?

A. By advertisements in the local papers and through their representatives coming in to the city and spending several days in hunting up boys and calling on the schools, etc.

Q. And turned them over to you?

A. Yes, sir.

Q. What do you do in the education of boys, in the training of them?

A. I try to map out different routes for them; find out where they live, and see if that territory is covered fully, and if it is not, put them on that, and if it is fully covered, to go a little outside of that territory. If the boy is a good talking boy, I try to get him in the business offices, etc.

Q. How about the other boys—do you do the same with the other magazines?

A. There are very few who handle the other magazines. Most of them are street boys who shout "The Saturday Evening Post" along with the other newspapers.

Q. Do you map out their territory?

A. They are mapped out according to the newspapers, directly. They take them along with them, and wherever they sell magazines, they take magazines with them.

Q. This is all mapped out by the newspapers—the different papers have different places for these boys, is that correct?

A. The boys have corners of their own that they have bought from other boys. Now, these newsboys will take magazines wherever they have call for them.

Q. What magazines do they take?

A. Mostly the Curtis publications, along with their newspapers.

Q. Then these Curtis boys handle newspapers, as well, in your community?

A. Very few, yes, sir.

Q. The other boys handle newspapers also, and some handle magazines?

A. About forty handle magazines exclusively—Curtis publications exclusively—and about twenty carry newspapers along with the magazines. Forty handle exclusively Curtis publications and twenty take them along with other newspapers.

Q. And these boys—about twenty boys that stand on the corners—handle Curtis publications as well as newspapers?

A. Yes, sir.

Q. But they are not the so-called Curtis boys, are they?

A. Yes, sir.

Q. Have you ever received any money for training or educating the so-called Curtis boys?

A. Yes; when a boy reaches a certain figure, he becomes a master salesman or a junior salesman, and so forth, and I get a dollar, or whatever the amount may be, as he increases.

Q. You get a dollar a head? Is that the idea?

A. Yes; a dollar a head, as he promotes himself—as he sells more copies.

Q. How many promotions have you had within the last year, say?

A. Two, I think.

Q. And were these the boys that had been with you for a long period of time?

A. Yes, sir.

Q. And had been turned over to you by them?

A. Yes, sir.

Q. That is correct?

A. Yes, sir.

Q. Did you ever obtain any money for lecturing to these boys?

A. No, sir.

Q. Or for obtaining the boys?

A. I do not think so.

Q. What you got was because of the efficiency of these boys?

A. Yes, sir.

Q. And a boy is promoted if he is an efficient boy?

A. Yes, sir.

Q. Why do you get the dollar?

A. Because I help him.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. If you get a new boy for the Curtis Company through your own efforts, do you not get something for getting that boy?

A. I am not positive. I think there is the dollar consideration.

MR. DALY: Do not think about this.

A. I do not know absolutely.

By MR. MILBURN:

Q. In these promotions of the boys, they are promoted up different grades?

A. Yes, sir.

Q. And does not the Curtis Company give you something when the grade increases?

A. Yes, sir.

Q. Do you remember that?

A. Yes, sir; as he becomes a master salesman and a junior salesman, et cetera.

Q. You get more and more for each grade?

A. Yes, sir.

Q. You took this contract in 1905?

A. Yes, sir.

Q. Were you at school then?

A. Yes, sir.

Q. You were then originally a Curtis boy?

A. Yes, sir.

Q. And continued on after you got out of school, and have worked up your business in that way?

A. Yes, sir.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. There is one more question I want to ask. I do not think it is proper re-direct, but I would like to ask it. Did you take on "Every Week"?

A. No, sir.

Q. Were you asked to take it on?

A. No, sir.

Q. Now, when you got this dollar, how many

copies did the boy have to sell before you received that dollar?

A. I think 50 "Posts" and 25 "Gentlemen."

---

F. C. SEGUIN was called as a witness on behalf of the Commission, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Please state your full name.

A. F. C. Seguin.

Q. Where do you live?

A. New Bedford.

Q. And your business?

A. Wholesale news dealer.

Q. What do you handle?

A. Newspapers and magazines.

Q. What magazines do you handle?

A. Hearst publications, Curtis publications, "Literary Digest," "Collier's," "Pearson's," and "Pictorial Review."

Q. And "Every Week"?

A. No, sir.

Q. Have you a contract with the Curtis Company?

A. I have.

Q. Has it the exclusive provision in it?

A. Yes, sir.

Q. How long have you been under that contract?

A. The one that has got the exclusive—I have been under the "Post" exclusive contract since 1914. Prior to that I was under a contract in 1909 that I do not remember whether——

Q. We are speaking about the contract that you are now under.

A. That has an exclusive provision.

Q. You know about it, do you?

A. Yes, sir.

Q. Were you ever asked to handle the "Pictorial Review"?

A. Yes, sir.

Q. Did you take it on?

A. I did.

Q. What happened about it—you say you do not handle it now?

A. I do; yes, sir.

Q. I beg your pardon. You still handle it?

A. Yes, sir.

Q. Did you get permission from the Curtis Company to handle it?

A. No, sir.

Q. Were you ever asked to take on "Every Week"?

A. No, sir.

Q. Do you handle the "Literary Digest"?

A. I do.

Q. When did you take that on?

A. When it went over from the American News Company to the independent dealers.

Q. What equipment have you for the handling of these papers and magazines?

A. Automobiles and team.

Q. Are you the only wholesaler in your city?

A. I am not the only wholesaler. I am the only independent wholesaler who does not draw from the American News Company.

Q. What part of the city do you cover, Mr. Seguin?

A. The entire part.

Q. How many retailers do you supply?

A. With what?

Q. With magazines and papers and everything?

A. About 200.

Q. How many are there in the city?

A. All of them.

Q. How many are in that city?

A. I do not quite grasp the question.

Q. Do you mean to say there are 200 retailers in the city, and you cover them all?

A. Yes, about 200.

Q. What do you do about your magazines after they are distributed, to see whether they are properly handled or not?

A. I do not know exactly what scope you want to cover by this question.

Q. I want it all covered. What do you do in following up the work—how do you handle the magazines with the retailers?

A. We make our deliveries, and when I make the collections I find out if they are properly supplied and find out whether I can increase the sales, or what the reason is, if there is a decrease. I find out why there is a decrease, if there is one.

Q. You would rectify that situation, as far as you could?

A. Yes, sir, as far as I can, yes sir.

Q. You have boys connected with your organization?

A. Yes, sir.

Q. How many are there?

A. In the vicinity of a hundred.

Q. How many so-called Curtis boys have you?

A. Exclusive Curtis boys?

Q. Yes.

A. I should say it fluctuates very much—between forty and eighty-five.

Q. Will you describe what you mean by "it fluctuates very much"—the number fluctuates very much?

A. Well, sometimes a boy may sell just the Curtis

publications, and then again they will take on other publications, and we have street boys who sell the publications.

Q. I am not clear as to what you mean, Mr. Seguin.

A. The newsboys and gamin.

Q. They drop in and out?

A. Yes, sir.

Q. Have you any idea of the average period of time a boy in this exclusive service serves with you?

A. No, sir.

Q. How many boys have you that serve two years?

A. Exclusive Curtis boys?

Q. Yes.

A. Oh, I should say twenty boys.

Q. You have that many, have you?

A. I think so.

Q. How many exclusive Curtis boys have you?

A. Well, I should say about forty, on an average.

Q. You have rather mixed me up on the number of these boys. I am not very clear as to that. You have about forty boys that do not handle anything else except Curtis publications?

A. Yes.

Q. What other boys have you?

A. We have boys that handle the other magazines and newspapers.

Q. Do any of them draw Curtis publications?

A. Some of them.

Q. How many boys sell newspapers?

A. About sixty to seventy.

Q. And when you took on the Curtis publications, did you have boys in your organization?

A. Yes, sir.

Q. How many did you have—do you remember?

A. I was in a different city when I first took on

the Curtis publications. It was a much smaller city than the place I am now in.

Q. What city was that?

A. Fitchburg.

Q. Then you went over to New Bedford?

A. Yes, sir.

Q. Now I am speaking of New Bedford.

A. Well, I should say there were about twenty-five boys at that time.

Q. Did they turn them over to you?

A. Yes, sir.

Q. I mean did the Curtis Company turn over any boys to you?

A. Yes, sir.

Q. How many?

A. About twenty-five.

Q. You had newspaper boys besides, at that time?

A. Yes, sir.

Q. How many of them did you have?

A. Around about fifty or sixty.

Q. What did you get from the Curtis Company for training these boys, if anything, or for obtaining their services?

A. Well, I think there are two sources of receiving money. I believe that now if you get new boys, after they have sold so many copies, you receive so much money.

Q. Have you any idea how much that amount is?

A. I believe it is a dollar. Then, there is——

Q. The requisite or the requirement is that these boys sell a certain number of copies before you get the dollar?

A. It is either so many copies or they have sold so many weeks. That is one source. Another is, where they are promoted to a league of salesmanship. We receive remuneration according to the grade that they come to.

Q. According to the grade?

A. Yes, sir.

Q. How much money have you received from that source within the last year?

A. From which source, sir?

Q. For these boys who have sold a certain number of papers, or have been with you for a certain length of time?

A. I am not positive, but I should say in the vicinity of twenty-five dollars.

Q. Within the last year?

A. Yes, sir.

Q. Did you handle the Munsey publications?

A. I did.

Q. Before you took on the Curtis Publishing Company magazines?

A. Yes, sir.

Q. How long did you handle them?

A. Well, about eight months—six or eight months. That was not in New Bedford.

Q. When did you take on the "Literary Digest"?

A. When it went from the American News Company to the independent dealers.

Q. That was last winter or last spring?

A. Yes, sir.

Q. Did you receive any notice from the Curtis Publishing Company with reference to this transaction at any time within the last year?

A. I have.

Q. What was that notice, if you know—we do not seem to have it here.

MR. MILBURN: We admit the regular notice was mailed to him.

MR. SPIESS: That is alright as far as that goes, but did you have any correspondence with him?

By Mr. Daly:

Q. Did you receive any letter from them besides the notice?

A. I did receive some letter calling my attentior to that clause in the contract.

Q. When did you receive it—about February, 1917?

A. About that time.

Q. Did Mr. Flanders see you about that or not?

A. About that?

Q. About this clause.

A. No, sir.

Q. Did you have any conversation with Mr. Flanders about your contract?

A. Not really about my contract.

Q. What was it about?

A. I had occasion to call them up on the 'phone early last winter about one of the publications that came overdue.

Q. One of his publications?

A. Yes, sir; and I stated that I was coming into Boston that morning and I wanted to know whether or not they had been shipped the night before so I could change my plans about coming in that morning. If they had been shipped and were in New Bedford that morning, I would not come into the city. While I was talking to him, a question came up as to the meeting of the news dealers, which was to be had at Boston that morning. He asked if I was going to the meeting. I told him I did not think I would. I did not know whether I would or not, but that probably I would not. He said he did not think it would have any bearing on my case.

Q. Did you know what this meeting of the news dealers was about?

A. Yes, sir.

Mr. Milburn: I object to that as incompetent and irrelevant.

By Mr. Daly:

Q. Of your own knowledge?

Mr. Milburn: I object.

Mr. Daly: Do you insist on that?

By Mr. Daly:

Q. What was the meeting about?

Mr. Milburn: I do object.

Examiner Moore: You may answer.

The Witness: The "Pictorial Review" question.

By Mr. Daly:

Q. Did you handle the "Pictorial Review"?

A. Yes, sir.

Q. What did Flanders say to you about the meeting?

A. He did not think it had any bearing on me—on my case, and would not interest me.

Q. In what way?

A. I took it for granted he understood I was going to go to that meeting to see what was to be done about taking on the "Pictorial Review." He did not say that to me in so many words.

Q. Did he mention the "Pictorial Review" in that conversation?

A. He did not.

Q. Simply called your attention to this meeting?

A. Yes, sir.

Q. And advised you it would not bear upon your situation?

A. Yes, sir.

Cross-Examination.

By Mr. Milburn:

Q. At the time of this last conversation with Mr. Flanders, you were acting under your Curtis contract?

A. Yes, sir.

Q. Which contained the exclusive clause?

A. Yes, sir.

Q. I assume you do not draw from the News Company at all?

A. Yes, sir.

Q. But any of these two hundred news dealers can get their magazines from you or from the News Company as they see fit?

A. Yes, sir.

Q. In reference to boys, any one of the boys can purchase publications from you to take out for delivery?

A. Yes, sir.

Q. Anyone who wants to can buy a "Post" from you and deliver it?

A. Yes, sir.

Q. You said there were about forty to eighty-five boys who devote themselves to the Curtis business?

A. Yes, sir.

Q. They are not the ordinary street boy, shouting out his papers—is that correct?

A. Yes, sir.

Q. Can you describe the difference?

A. The Curtis boys—what I consider them—are dealt with entirely separate from the street boys.

By Mr. Daly:

Q. They are just boys, are they not?

A. Yes, sir.

By Mr. Milburn:

Q. Mr. Daly asked you about correspondence. Have you had any correspondence with Mr. Douglas or Mr. Flanders about this matter—have you written any letters or received any letters other than the notice?

A. I do not exactly remember the date, but it was the time the Publishers' News Company——

Q. You got a notice at one time, but you have not received any other letters from the company?

A. No, sir.

By Mr. Daly:

Q. What about the Publishers' News Company? You started to say something. Learned counsel brought that out. I think you should be permitted to state that.

Mr. Milburn: No; I asked if he had any correspondence with the Curtis Company.

Read the answer, Mr. Stenographer.

(The stenographer repeated the answer.)

Mr. Daly: He was cut off there.

By Mr. Milburn:

Q. That was the time you got the notice?

A. It was prior to that.

Q. You had no other correspondence than the notice in 1917, at the time we are talking about—about the "Pictorial"?

A. No, sir.

Q. When you first went to New Bedford, did you handle Curtis publications only, for a short time?

A. No, sir.

Re-Direct Examination.

By Mr. Daly:

Q. What notice did you get about the Publishers' News Company, Mr. Seguin?

A. At the time the Publishers' News Company was organized, I had not been approached by any of their representatives to take on their magazines.

Q. Tell about the notice, if you got any, about that.

A. When the Publishers' News Company was formed—I believe "Everybody's" and all the Butterick

papers were given over to the independent dealers—about that time I received some correspondence from the Curtis Publishing Company from Philadelphia, and one of the questions asked in there was whether or not I was going to take on those publications, and at the same time calling my attention to the clause in my contract, and I replied to that question that I had no intentions at that time to take on those publications, but I did not intend to sell my birthright, and in the future I could not say what I would or would not do.

Q. Did you write the Curtis Publishing Company in reply to those form letters that you received last winter, or not?

A. Not the one received last winter.

Q. When did you write to them about it?

A. The one referring to the Publishers' News Company.

MR. DALY: That is all.

---

HERMAN P. KOPPLEMAN, called as a witness on behalf of the Commission, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Please state your full name and address.

A. Herman P. Koppleman, Hartford, Connecticut.

Q. Are you the Curtis representative at that place?

A. Yes, sir.

Q. Have you a contract with them for the purchase of their magazines?

A. I have.

Q. When did you enter into this contract, if you know?

A. Oh, I should say it was eight or nine years ago —perhaps ten years ago.

Q. There is a restrictive clause in it?

A. There is.

Q. Are you familiar with that restrictive clause?

A. Do you mean thirteen?

Q. Yes, clause 13.

A. Yes, sir.

Q. Were you or not offered the handling of "Pictorial Review" within the last year?

A. I was.

Q. By whom?

A. Why, I think Mr. Funston and Mr. Snow, if I am not mistaken, and perhaps another gentleman——

Q. The representatives of the Pictorial Review Company?

A. Yes, sir.

Q. Did you take it on?

A. I did not.

Q. Why?

A. Because I felt that it would be contrary to the wishes of the Curtis Company's contract with me.

Q. How did you get that information?

A. Well, definitely I could not say how I got that information. I do not remember exactly, but I should say, as near as I can remember, in talking with the representative of the Curtis Company on the telephone.

Q. Who advised you—what did he say to you on the telephone?

A. He told me that he did not think the office would care to have me handle that publication, and accepting that as final; another time in a talk with one of the men in the office of the Curtis Publishing Company, I asked something about it and received along the same line, the same information, which gave me to understand that the Curtis Publishing Company would not waive their rights in that section 13.

Q. Were you approached by representatives of "Every Week," to handle their paper?

A. Never.

Q. Do you handle the "Literary Digest"?

A. I do.

Q. When did you put that on?

A. I do not remember the exact date, but I should think it was last February.

MR. DALY: That is all.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. At the time you entered into your Curtis contract eight or nine years ago, had you ever wholesaled any other magazines before that?

A. I had.

Q. You had wholesaled magazines?

A. No, sir; pardon me; newspapers.

Q. So, your Curtis agency was the start of your wholesaling magazines?

A. Exactly.

Q. Since that time you have taken on other magazines?

A. I have.

Q. With particular reference to Curtis publications, how do you distribute them to your trade?

A. We have a number of ways of distribution. Some of us the Curtis Company gives assistance by mailing direct where they are so distant they cannot be reached otherwise. Then we have an arrangement with the railroad company that makes distribution on the steam roads, and arrangement with the trolley roads that make distribution at trolley stations at different stations, which is more or less hazardous because there is some loss, and it is expensive, and then we have a delivery of our own, and we use some of our street

boys to make delivery, all of which is for the purpose of making an efficient delivery so early on Thursday morning, that every one of our customers has them on sale before people are in the habit of getting up and going to their business.

MR. DALY: Please read that question. It is rather a long answer, and I do not understand the question.

(The stenographer repeated the question.)

By MR. MILBURN:

Q. Do you distribute through boys devoted entirely to Curtis business?

A. I do.

Q. How many of them are there?

A. I should say at least 60; there may be as many as 75.

Q. You are Senator from your city?

A. I am Senator from the district which I represent.

Q. On the operations of these boys in the sale of their papers, you make a weekly report to the Curtis Company?

A. Yes; it takes something like an hour and a half or two hours to enumerate their sales each week.

Q. You take general supervision and charge of these boys and direct them in their energies?

A. I do.

By MR. DALY:

Q. What do you do in supervising and directing their energies?

A. In the first place, we coach them on how to get the largest sales possible, and where we find a boy that is particularly receptive to our line of argument, as to what they ought to do in reference to their sales, we speak to their folks—their mother and father.

Q. Do you do that personally?

A. Yes, I take pleasure in doing that. I like to see them get along.

Q. It is a nice work?

A. Yes, sir.

Q. How many other boys do you have?

A. About 150 boys.

Q. Do you coach them in their work, too?

A. Yes; in the newspaper work, and anything we have to supply them with.

Q. You take as much interest in other boys as these boys?

A. No, sir; that is not true. You asked if we coached them.

Q. To what extent do you coach them?

A. On several occasions if we want to make some special drive—for instance, if the "New York American" were to get some exclusive article or some feature that they would have alone, they have advised us in advance, or at times they give away something with a certain issue, and I take hold of the boys and I tell them it is to be in there, and we put up some prizes to instill some enthusiasm in them, and are able to get more business in that way.

Q. Newsboys?

A. Yes, sir; and dealers as well.

Q. Dealers as well?

A. Yes, sir.

Q. You handle all magazines, do you, Mr. Koppleman?

A. I should not say we handle all magazines. We handle some.

Q. What do you handle?

A. The group known as the Hearst group and the Munsey group. We handle, for instance, "Jim Jam Jems."

Q. When did you put on the Munsey group?

A. We had them on, off and on, and have got them on again.

Q. When did you first put them on?

A. I think it is four years ago. I would not say positively.

Q. You put the "Literary Digest" on in the winter time—this last winter?

A. Yes, sir.

Q. Did you get permission to do that from the Curtis Company?

A. Yes, sir; I spoke to a representative of the Curtis Company, and I notified Mr. Grosjean, who was my District Manager, that I had been offered it, and I received a letter that there would be no objection. I think I received a letter that there would be no objection. There was something definite to it anyway.

Q. Why did they not object to the "Digest" going on?

MR. MILBURN: I object.

MR. DALY: He received a letter——

MR. MILBURN: He does not know why they did not object.

MR. DALY: But he said he received a letter.

By MR. DALY:

Q. Why did they give you permission?

A. I do not know.

Q. Did you receive a letter?

A. I do not remember that I did get a letter. I did not say that I got one. I said I imagined I got a letter or some information somewhere or somehow that would indicate it was all right.

Q. Did you write him, Mr. Douglas?

MR. DOUGLAS: If he made an inquiry, we did write him and give him sanction, but I cannot say from memory whether we did write him.

THE WITNESS: I do not remember getting such

a letter. In looking over my files soon after getting the subpœna, I did not find any.

By Mr. Daly:

Q. What kind of a letter did you receive?

A. I think it was frank and free.

Q. I suppose it was.

A. As near as I can remember, I think he was perfectly satisfied that I should handle it.

Q. What did he say to you?

A. I do not remember the exact conversation, except I remember I did get some understanding or permission.

Q. How many other magazines did you get permission to handle?

A. I cannot answer that, because I do not know.

Q. Did you get any permission to handle any others?

A. I remember when the Hearst group of magazines was turned over to the independent agents. I got that information through the circulation manager of the "New York American," who had charge of it, saying he had a talk with Mr. Douglas and Mr. Douglas was perfectly satisfied.

Q. Was satisfied about that?

A. Yes, sir.

Mr. Daly: That is all.

By Mr. Milburn:

Q. Is there any general difference in type between the boys who devote themselves to this Curtis business and newsboys?

A. There is.

Mr. Daly: I object to that. I do not know how a man is going to describe a type of boy from 250 boys in a town, and go into types. I do not know what it means, and I do not see how the witness

can testify to it. I object to it, because it calls for a conclusion as well.

EXAMINER MOORE: You may ask what kind of boys he uses.

By MR. MILBURN:

Q. Are a great many of these boys who distribute this Curtis magazine, exclusively school boys?

A. They are.

Q. They utilize some of their spare time in distributing Curtis magazines?

A. They do.

Q. In connection with that, are you in touch with the parents and teachers of the schools where they attend?

A. Their parents more than their teachers, but their teachers also, because I make it my business sometimes to run into the school and get the principal to hold some of the boys, waiting until after school hours, so I can talk to them about the Curtis work.

Q. And in securing those boys, do you get any aid or assistance from the Curtis Company?

A. I do.

Q. You said you were asked to handle the "Pictorial Review" by the Pictorial Review people.

A. By their representatives. I do not remember any letters. I may have received them, but I do not remember.

Q. Were you asked to sell them through the boys?

A. The first time I think I was asked to sell them only to boys, and I would not be permitted to sell them to news dealers, because the American News Company's contract with the "Pictorial Review" was such that I could not interfere with the American News Company or its branches' business, and that I could only sell to the boys.

Q. Any retailer in your city can get magazines from any American News Company branch?

A. All magazines we handle are also handled by the American News Company branch.

MR. MILBURN: That is all.

By MR. DALY:

Q. Among these other boys there are school boys, too, are there not?

A. Yes, sir, there are.

Q. When was the last time you visited the school about these boys?

A. I should say that the last time—I could have my memory refreshed, perhaps, by a man who is here—but I should say it was not more than three months ago. I went with a Curtis Publishing Company man the last time I addressed the boys. Since that time, I went to another school and saw the principal in reference to the boys and since that time——

Q. I am talking about the last time you went to a school.

A. The last time I went to a school I do not believe was over three months ago.

Q. When was the last time you visited a home about these boys?

A. Visited a what?

Q. Visited a home in reference to these boys.

A. I remember definitely and distinctly going on Rush Street, I should say just before that time.

Q. When was the time before that that you visited a home?

A. Well, frequently before that. I should say not over a lapse of two or three weeks before that.

Q. Before that, when did you visit a home?

A. I cannot say. I think just before that I was ill and had to go away for a while. It took me out of business for about two or three months.

Q. Since the time you were ill and you got back, you visited three homes; is that it?

A. I should say I visited more, but I cannot remember definitely more than that.

Q. What homes did you visit?

A. I visited a home on Rush Street. The name of the boy was Carlton Hathaway, on Rush Street. I visited a boy by the name of Kaplan, in Bellevue Street. Those two I definitely remember.

Q. That is since when?

A. I should say that was in the neighborhood of three months ago.

Q. Now, what were you doing about that boy—getting him to go to work for your company?

A. No, sir; those boys were working.

Q. What did you see them about?

A. Curtis publications.

Q. Well, what about the publications?

A. Why, I think that in the Hathaway case it was a case of getting him interested in "The Country Gentleman"—to sell more "Country Gentlemen," if I am not mistaken. That was the particular errand there. He was not selling enough.

Q. They were falling down, as a matter of fact, in their sales?

A. No, sir; I would not say they were falling down.

Q. That is what you did say.

MR. MILBURN: I beg your pardon. This boy was not selling as many as he wanted him to.

MR. DALY: Well, he fell down.

THE WITNESS: No, I would not say that. He did not fall down. He was a good "Post" boy, but his proportion of "Country Gentleman" to the "Post" was not sufficient, as we deemed it, and we thought he should sell more.

By Mr. Milburn:

Q. When you called on these boys, it was in reference to Curtis publications?

A. Yes, sir, it was.

---

F. C. Seguin was recalled as a witness, and having been previously duly sworn, testified further, as follows:

Direct Examination.

By Mr. Daly:

Q. Mr. Seguin, you have already testified, and I only want to ask one more question. Did you ever receive any money for lecturing and instructing boys as to efficient ways of handling Curtis publications?

A. Not directly, excepting as I testified before—not lecturing; no, sir.

Q. Your testimony before was what?

A. That I had received money where I got new boys and had sold a certain number of copies.

Q. Then you did not get anything for lecturing and coaching the boys?

A. No, sir.

By Mr. Milburn:

Q. As the boy was advanced in rank—I think you did testify to that did you not?

A. Yes, sir; I testified to that before.

By Mr. Daly:

Q. You never lectured to the boys, as a matter of fact?

A. No, sir.

Q. Or coached them?

A. Yes; I have coached them.

Q. You never visited their homes, did you?

A. No, sir.
Q. Or the schools?
A. No, sir.
MR. DALY: That is all.

---

EDWARD P. HUNT, called as a witness on behalf of the Commission, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:
Q. What is your full name, Mr. Hunt?
A. Edward P. Hunt.
Q. Where do you reside, Mr. Hunt?
A. East Weymouth, Massachusetts.
Q. What is your business?
A. News agent.
Q. What do you handle?
A. Magazines and newspapers.
Q. How long have you handled them?
A. My business has been going on for upwards of twenty-five years.
Q. What territory do you cover in your business?
A. Practically we cover all of Weymouth, all of Hingham and all of Hull.
Q. Have you a contract with the Curtis Publishing Company?
A. We have.
Q. When did you enter into that contract?
A. Last May.
Q. Had you a contract prior to that time?
A. We did have.
Q. What became of that contract?
A. It was cancelled when I sent my check to the "Pictorial Review."

Q. You were asked to handle "Pictorial Review"?

A. I had a letter asking if I wanted the agency.

Q. Did you reply to it?

A. By sending my check and order.

Q. For how many copies?

A. I think for something like one hundred odd copies.

Q. Were not objections raised to your handling the "Pictorial Review" by the Curtis Publishing Company?

A. Why, I was told——

Q. By whom?

A. By Mr. Flanders, that my agency was cancelled when I made out my check for "Pictorial Review."

Q. Who is Mr. Flanders?

A. Of the Curtis Publishing Company.

Q. When did that happen?

A. Why, I think he told me in his office.

Q. When?

A. Well, after he cut off my supplies.

Q. He cut off your supplies?

A. Yes, sir.

Q. At what time?

A. The issues of the "Post" and "Country Gentleman" dated March 24 was the last we had until the 1st of May.

Q. How many copies in these supplies did he cut off—how many did you handle?

A. He cut off all of them. We were handling something like two hundred copies of the "Post," and seventy-five of "The Country Gentleman."

Q. Any "Ladies' Home Journal"?

A. And "The Ladies' Home Journal."

Q. How many copies of that?

A. About 250.

Q. They were all cut off?

A. Yes, sir.

Q. About February 5, 1917, did you or not receive a letter from Mr. Douglas in reference to this contract?

A. Yes, sir, a circular letter.

Q. Will you look at that (handing paper to witness)?

A. That is my letter, all right.

Q. That is the letter you received from Mr. Douglas?

A. Yes, sir.

Q. Is this your reply in red ink on the side (indicating)?

A. Yes, sir.

MR. DALY: We offer this letter and the reply in evidence.

EXAMINER MOORE: It is admitted without objection.

(The letter referred to, together with the reply written thereon in red ink, was thereupon received in evidence and marked by the stenographer, "Commission's Exhibit No. 56," and the same is as follows):

COMMISSION'S EXHIBIT No. 56.

(On letterhead of the Curtis Publishing Company.)

"February 5, 1917.

Mr. E. P. Hunt,
East Weymouth, Massachusetts.

Dear Mr. Hunt:

The plans of another publisher and his agent (news company) lead us to remind you of Clause 13 of your Curtis contract. The purpose and effect of that clause are as follows:

*With respect to periodicals not previously wholesaled by you, you definitely agreed to refrain from wholesaling to boys or dealers any periodicals not our own without first obtaining our approval.*

Of course, you will be very careful to make with the other publisher or his agent (news company) no arrangement contrary to your Curtis contract.

In justice to you and to avoid any situation which would be embarrassing to both you and us, we feel in duty bound to say that your arrangements with us may be continued only upon the basis stated.

Our relations have been so very pleasant that we hope to be able to supply and serve you indefinitely hereafter.

This is a general letter to all of our District Agents. Please attach it to your Curtis contract for future reference.

Very truly yours,

THE CURTIS PUBLISHING COMPANY.

(Signed) M. E. Douglas,

*Manager Sales Division.*"

(Commission's Exhibit No. 56, continued: The following remarks were written in red ink on letter just preceding):

"Tuesday, Feb. 6-1917.

*Mr. Douglas:*

We will sell & *wholesale* all we can *without* your consent. Let this be understood, only *and for always.*

(Signed) E. P. HUNT.

Take the bond & the whole damn agency if you want it.

E. P. H. Geo. H. Hunt & Co.

Mr. Flanders:

*Please forward to Douglas.* I don't know to what he refers but it stands. Does he think we are a lot of damn fools?

E. P. H."

By Mr. Daly:

Q. After you were cut off from these publications, from buying these publications, did you endeavor or not, to obtain them elsewhere?

A. I did, very strenuously.

Q. Where did you try to get them?

A. Various places.

Q. Well, name them.

A. Brighton, Plymouth, Rockland, Providence, Pawtucket and Boston. I do not know whether that is all or not.

Q. Were you able to secure copies that were necessary to supply your trade?

A. I did not secure all, no.

Q. What did you do in Providence—did you mention Providence in there?

A. Yes, sir; I placed an order with the Rhode Island News Company.

Q. Did you obtain them from them?

A. No, sir; I did not.

Q. When you took on the Curtis publications the first time, how many boys did you have in your employ, if any, in these various towns? When was it you made this contract that I am speaking about?

A. This contract that I was cut off from was dated in 1914, in October.

Q. Is that the first contract you had with them?

A. No, sir; I had several contracts with them.

Q. At the time you began to do business with them how many boys did you have, if you can recollect approximately?

A. I cannot say at this time, but I should say there were somewhere in the neighborhood of a dozen or fifteen.

Q. How many boys did you have when this contract we are speaking about, was entered into?

A. About twenty.

Q. How many of those were so-called Curtis boys?

A. There was only one.

Q. What do you mean by a Curtis boy?

A. A boy who was selling nothing else but "Saturday Evening Posts," "The Country Gentleman," and "The Ladies' Home Journal."

Q. How do you distribute your papers to your customers?

A. By automobile.

Q. I mean your papers and periodicals?

A. By automobiles.

Q. To whom do they go?

A. Why, the magazines that we get, if they are independent, we distribute them, or I do, by automobile.

Q. To whom do you deliver?

A. To the houses of the boys and the stores of the dealers.

Q. And that is the way you cover that territory?

A. Yes, sir.

Q. And what touch have you with your customers?

A. Personal touch.

Q. How frequently do you see them?

A. At least once a week.

Q. Why do you keep that close touch with your dealers?

A. I think it is the most efficient way.

Q. Did you take on the "Literary Digest"?

A. I did.

Q. What permission did you receive from the Curtis Company about that?

A. I did not ask anybody else's permission, nor seek any.

Q. Just took it on?

A. Yes, sir.

Q. Have you taken on "Every Week"?

A. I expect to have some.

651

Q. You expect to take it on?

A. I do.

Q. Have you told the Curtis people you are going to take it on?

A. No; I know of no reason why I should.

Q. Did you tell them you were going to take on the "Literary Digest"?

A. No.

Q. Does the American News Company deliver periodicals in your territory?

A. Not in East Weymouth; it does in South Weymouth and Weymouth and North Weymouth.

Q. Not in East Weymouth?

A. No, sir.

Q. You cover East Weymouth exclusively?

A. All of the Weymouths.

Q. Are there not other wholesalers who cover that territory?

A. There are none.

Q. There are retailers in East Weymouth where the American News Company does not deliver their periodicals, is that correct?

A. There are.

Q. How many are there?

A. There is one in the square—only one.

Q. How many retailers do you cover, as a matter of fact, in all your territory?

A. We have fifteen dealers at this time of the year—more in the summer time.

Q. Why more in the summer time?

A. We have the beach business in the summer time—Nantasket Beach.

Q. Does the American News Company reach all of these dealers, if you know, with their publications?

A. No, sir; they do not.

Q. How many do they reach, if you know?

A. They do not touch Nantasket at all.

Q. What other point is it they do not touch?

A. Their automobile only covers South Weymouth, Weymouth, and North Weymouth. They cover Hingham by shipping by express, as I understand.

MR. DALY: That is all.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. Mr. Hunt, you first entered into your Curtis relationship in 1909, did you not?

A. Yes.

Q. At that time you had never wholesaled any other magazines, is not that true?

A. I do not think so.

By MR. DALY:

Q. What do you mean by that answer? You do not think it is true, or you do not think that you wholesaled any other magazine?

A. We had newspapers, but I do not think—I am not sure about magazines.

By MR. MILBURN:

Q. You do not think you had any other magazines—is that correct?

A. I will not say for sure.

Q. I did not get the date when you spoke about your Curtis agency being suspended.

A. Next to the last issue in March—March 24.

Q. When that happened, the Curtis Company appointed another agent in your district?

A. They did not.

Q. During the suspension of your contract, they had no agency there at all?

A. Only in South Weymouth, and one in North Weymouth.

Q. They had a man there covering the territory that you covered, when you had it?

A. Trying to.

Q. They had a man there covering the territory?

A. The best they could.

MR. MILBURN: I ask that the witness be directed to answer yes or no, and that his answer be stricken out.

EXAMINER MOORE: The motion is sustained.

By MR. MILBURN:

Q. They had a man there, to your knowledge?

A. I know they did.

Q. When you represented the Curtis Company, you sold these publications to different dealers within your territory?

A. Yes, sir.

Q. You had an agreement with them as to how many they would take per issue?

A. With the dealers?

Q. Yes.

A. No; I always regulated their order.

Q. You sold them all they wanted?

A. Absolutely.

Q. You would find out in the course of your business how many each wanted, and you would send them around to them?

A. That is correct.

Q. You spoke about knowing no reasons why you should inform the Curtis people why you intended to take on "Every Week." Does not clause 13——

A. When a lawyer says——

MR. MILBURN: Just a moment. I move to strike out his reference to what a lawyer says.

By MR. MILBURN:

Q. Does not clause 13 at least raise a doubt in your mind as to what you should tell them?

A. It raises no doubt in my mind.

Q. In other words, you did not expect to abide by clause 13?

A. Absolutely not.

Q. Any dealer in any of the Weymouths can secure copies of all the magazines from the American News Company or its branches, if he writes for them?

A. Certainly.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. How many lectures have you delivered to this one boy?

A. I think he is crazy. He does not deserve any lectures.

By MR. MILBURN:

Q. Is he a good listener?

A. He listens, but it does not do any good.

Q. When you took the agency over, how many boys did the Curtis people furnish you?

A. The Curtis agency goes a way back to 1909.

Q. Did they turn over any boys to you then?

A. I think they did.

Q. Do you remember how many?

A. It might have been five or ten—somewhere in that neighborhood.

By MR. DALY:

Q. How many continued with you, of that five or ten—what became of them? Are they in the twelve boys you have been talking about?

A. I do not think so. I think they have all quit.

Q. Do you know so?

A. Prior to 1909, we had a contract and all those boys taken at that time, are out of the game. They got too old to sell.

Q. These other boys, except the one boy or boys that you have attached to your business?

A. Some of those the Curtis people secured.

Q. How many of them are there—I want to know the facts about that—about how many did the Curtis people secure?

A. They might have secured half of them. I could not give that information.

Q. What do you mean by saying there was one so-called Curtis boy?

A. You could not interest him in any other magazine.

Q. The other boys handled other magazines?

A. Yes, sir.

By Mr. Milburn:

Q. As well as Curtis magazines?

A. Yes, sir.

Q. You do not call a boy furnished you by the Curtis Company a Curtis boy, if you use him to handle any other magazine—do you understand the question?

A. Not in that sense.

Q. What do you mean, "in that sense"? You do not consider him a Curtis boy if you use him to deliver any other magazine?

A. If I get that boy to a point where he can sell other magazines, I do not think he is wholly a Curtis boy, although the Curtis people may have—he may have answered an advertisement of "The Saturday Evening Post," or something like that.

Q. Or if you have some boy found by the Curtis representative in charge of that district, you do not consider him a Curtis boy?

A. No, sir.

Mr. Milburn: That is all.

Mr. Daly: That is all.

Examiner Moore: We will take a recess at this point until two o'clock.

(Whereupon, at 12.30 o'clock P. M. a recess was taken to 2 o'clock P. M. of the same day.)

AFTER RECESS.

2 P. M.

---

HERMAN KOPPLEMAN, was recalled as a witness, and testified further as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Mr. Koppleman, will you look at this correspondence? (Exhibiting papers to witness.)

A. I have done so.

Q. Was that the correspondence between your firm and the Curtis Publishing Company with reference to this contract?

A. Yes.

MR. DALY: Under agreement, I offer this in evidence.

MR. MILBURN: There is no objection.

EXAMINER MOORE: Very well; the correspondence is admitted.

(The correspondence referred to was thereupon received in evidence and marked by the stenographer, "Commission's Exhibit No. 57," and the same is as follows):

COMMISSION'S EXHIBIT No. 57.

(Letterhead of H. P. KOPPLEMANN, Hartford, Conn.)

"March 9th, 1917.

Mr. M. E. Douglass, Sales Manager,
The Curtis Pub. Co., Phila., Pa.

Dear Mr. Douglass:

I am informed that the following Curtis Agents handle Pictorial Review:

Meshara Bros., Boston,

Meyer Reisler, Boston,
Ralph Bauer, Lynn,
George Martin, Fall River,
L. R. Kilpatrick, Fort Wayne, Ind.
Shoudy Bros., Syracuse, N. Y.
S. P. Booth, Interborough News Co.
United News Co., Phila., Pa.
Also cities of Salem, Fall River, Cleveland and Detroit.

Yours very truly,
(Signed) H. P. KOPPLEMANN."

---

(POSTAL TELEGRAPH COMPANY'S BLANK)
"C. L. Grosjean District Mgr Curtis Pub Co., Phila.

Sent my information in letter to Mr. Douglass Friday.

H. P. KOPPLEMANN."

---

"March 14, 1917.

Mr. H. P. Koppleman,
41 Kinsley Street,
Hartford, Connecticut.
Dear Mr. Koppleman:

So far as Messrs. Reiser, Booth, the Solomons, Cleveland and Detroit, are concerned, I know that baseless information is back of the statements that have been made to you for these gentlemen have without qualification denied the rumors.

In fact, so many mis-statements and rumors without foundations are in circulation, that I am sure neither you nor I have the inclination or the time to devote to chasing shadows.

If it should be that one or two of those named in your letter have made arrangements as stated, you may be sure that it will be discovered and the

situation dealt with in due course. We thank you very much for having written as you did about it. Our many friends like you in the field are valued and appreciated more and more as the years go by.

Very truly yours,
THE CURTIS PUBLISHING COMPANY,
*District Manager.*

Dictated by
MED SM"

---

(Letterhead M. Kopplemann)

(No date.)

"I was congratulating myself that I had my order so regulated that I was getting a maximum of representation with a minimum of returns, but the slump in sales of the Feb. 24 issue and the March 3 issue particularly have rather taken the wind out of my 'sobs' (a pun).

Mr. Kelly, I understand, has submitted to you a copy of the contract offered me for the 'Literary Digest,' and he informs me that you have no objection to my handling it, but in order to keep things straight, I now formally ask you that question. Have you any objection to my handling that publication. In regard to the publication which Mr. Douglas has in mind and of which he has written me, I would say I turned it down cold, even if the man who urged me to accept that agency did intimate I was not red-blooded, etc.

Yours truly,
(Signed) M. KOPPLEMANN."

---

"March 22, 1917.

Mr. M. Kopplemann,
35 George Street, New Haven, Connecticut.

Dear Mr. Koppleman: Your letter stating that you will not handle The Pictorial Review

pleases us very much. To me personally and to all of us it is gratifying to see the spirit of loyalty and one-mindedness in this matter shown by District Agents everywhere.

With all good wishes,

Very truly yours,

THE CURTIS PUBLISHING COMPANY.

Dictated by *District Manager.*
MED BHL"

---

(Letterhead M. Kopplemann)

"Oct. 4, 1917.

Mr. C. L. Grosjean, District Manager,
The Curtis Publishing Co., Phila., Pa.
Dear Mr. Grosjean:

Enclosed please find check for $100.00 on account Post and Gents. Kindly credit. I am sending by parcel post the following headings which kindly credit.

| POST | | GENTS | | L. H. J. |
|---|---|---|---|---|
| 9/15 | 41 | 9/15 | 6 | |
| 9/22 | 142 | 9/22 | 49 | 108 |
| | | 9/29 | 45 | |

A. I. Cohen, the agent for Pictorial, suddenly gave up his wholesale business, and the road man for Pictorial was in urging me to take over the agency. He informed me that no effort was to be made to corral the boys and that they only wanted a distribution. Naturally, I would prefer to handle the publication both for the money and because it would keep another wholesaler out of the field. Knowing your stand in the matter I turned it down, but if there should be any change, I should be glad to hear of it.

Yours truly,

(Signed) M. KOPPLEMANN."

(Envelope with cancelled stamp attached to Curtis Pub. Co.)

"October 8, 1917.

Mr. M. Kopplemann,
35 George Street,
New Haven, Connecticut.
Dear Mr. Kopplemann:

We appreciate your voluntary refusal of the offer recently made to you, to which your letter dated October 4 refers, and thank you therefor.

Our position in the matter is still unchanged. If events should lead to a policy other than our present one, we shall promptly advise you.

With all good wishes,

Very truly yours,

THE CURTIS PUBLISHING COMPANY,

Dictated by *District Manager.*
MED BHL"

MR. DALY: That is all, Mr. Kopplemann. You are now excused.

---

JAMES W. HEFFERNAN, called as a witness on behalf of the Commission, having been first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. SPIESS:

Q. Please give your full name?

A. James W. Heffernan.

Q. And your address?

A. 153 Main Street, Northampton, Massachusetts.

Q. What business are you in, Mr. Heffernan?

A. In the book, stationery and news business.

Q. Wholesaling or retailing?

A. Both.

Q. How long have you been in the wholesaling business?

A. Practically twenty years.

Q. What were you wholesaling when you first began the business?

A. Why, I did very little at that time.

Q. I say what?

A. I do not remember that I wholesaled anything in particular, except in Northampton there were only two dealers—another dealer and myself who handled newspapers and periodicals, and if I remember rightly, when Munsey first put out his publications, I think I furnished this other dealer some of his magazines—a very few. Then they took them away from the dealers and furnished them through the News Company. Of course, that ceased after that.

Q. How long ago was that?

A. About twenty years ago.

Q. How long have you been under contract with the Curtis Publishing Company?

A. As near as I can remember, about twelve or fourteen years.

Q. You stated you handled "Munsey's" about twenty years ago. Did you handle any other magazines before you entered into the contract with the Curtis Company fourteen years ago?

A. I handled magazines that I drew through the News Company. I retailed them.

Q. Since you have been under contract with the Curtis Company, what other publications have you taken on?

A. The Hearst publications, and then Munsey's again. That is practically all.

Q. Did you know of the exclusive clause in your contract, at the time you took on the other magazines?

A. Why, it had not occurred to me. I did not think of it.

Q. It was in your contract, was it not?

A. I believe it was. I signed a contract in 1914,

and it was in that. Now, in the ones previous to that, I do not know.

Q. When did you take on the Hearst magazines?

A. I do not think that was over four or five years ago.

Q. Did you ever handle the "Pictorial Review"?

A. Why, I agreed to. I signed a contract with them and then I gave it up.

Q. When did you give it up?

A. Why, a few weeks after I took it when I found that the Curtis people objected to it.

Q. How did you find they objected to it?

A. The first I knew was a circular letter I received and then Mr. Flanders came up to see me in regard to it.

Q. How did you know this was a circular letter?

A. Why, its appearance indicated that.

Q. What was its appearance?

A. Why, it was a printed form.

Q. It was printed?

A. Yes, sir.

Q. Not typewritten?

A. No, sir; and I destroyed it.

Q. Mr. Flanders came up to see you?

A. Yes, sir.

Q. What did he say?

A. He told me they had objections to my handling the "Pictorial," and wanted that I should give it up. It was either to give up the "Pictorial" or the Curtis.

Q. Then what did you do?

A. I gave up the "Pictorial" and wrote them to that effect.

Q. I now show you a letter dated Northampton, Massachusetts, April 6, 1917, signed J. W. Heffernan, and ask you if that is the letter you wrote to Mr. Flanders, of the Curtis Company?

A. Yes; that is a letter I wrote.

MR. SPIESS: We offer that letter in evidence.

EXAMINER MOORE: The letter is admitted in evidence without objection.

(The letter referred to was thereupon received in evidence and marked by the stenographer "Commission's Exhibit No. 58," and the same is as follows):

COMMISSION'S EXHIBIT No. 58.

(Letterhead of J. W. Heffernan, Northampton, Massachusetts)

"April 6, 1917.

Mr. Flanders,

Dear Sir:

I wrote the Pictorial Co. the night you were here the first thing next morning my order on Pictorial came it was too late to cancel. same to me the only thing I can do is put this issue out to subdealers and not handle it hereafter.

Hoping you will agree to this arrangement.

Yours truly,

(Signed) J. W. HEFFERNAN."

By MR. SPIESS:

Q. I now show you a letter dated Northampton, May 12, 1917, and ask you if that is a letter you wrote Mr. Flanders?

A. Yes, sir; that is.

MR. SPIESS: I offer that in evidence.

EXAMINER MOORE: The letter is in evidence without objection.

(The letter referred to was thereupon received in evidence and thereupon marked by the stenographer "Commission's Exhibit No. 59," and the same is as follows):

COMMISSION'S EXHIBIT No. 59.

(Letterhead of J. W. Heffernan, Northampton, Massachusetts)

"May 12, 1917.

Mr. Flanders,

Dear Sir:

I have understood the trouble between the Curtis Co. and Pictorial Review Co. has been settled.

Will you please let me know by return mail if I can handle the Pictorial Review.

Yours truly,

(Signed) J. W. HEFFERNAN."

By MR. SPIESS:

Q. Did you ever distribute the "Pictorial" to retail dealers?

A. Before this, you mean?

Q. At any time.

A. No, sir; except they sent the May issue, if I remember rightly, and it came the day before Mr. Flanders saw me, and I had them in my store, and I told him—I asked if he would let me put those out because I had paid for them and did not want to lose them, and if I remember rightly, he told me to take it up with the Springfield News Company.

Q. Who are they?

A. They are a branch of the American News Company, located in Springfield, twenty miles from Northampton.

Q. Why did he say that?

A. Because he thought they would take them off my hands.

Q. But you had contracted to deliver these to the retail dealers for the Pictorial Company?

A. Yes, sir.

Q. What did you do?

A. I called up the manager of the News Company on the 'phone and asked him if he would do it, and he said he would let me know the following day, I think, and he called me up the following day and told me they did not care to touch them.

Q. What did you do?

A. I turned them over to a boy, and I let him put that month's issue out.

Q. Did he distribute all of them?

A. All we had orders for—three other dealers.

Q. You had already received these orders from the dealers before you ordered—is not that so?

A. Yes, sir.

Q. But you did try to get the branch of the American News Company to take the "Pictorials" off your hands, because Mr. Flanders, of the Curtis Company, objected to your distributing them—is that so?

A. Yes, sir.

Q. Now, after this time, did you distribute any more "Pictorial Reviews"?

A. No, sir; I did not.

Q. You never have?

A. No, sir.

Q. Why?

A. Well, I told Mr. Flanders that I preferred to handle the Curtis publications, and for that reason I gave up the "Pictorials."

Q. How many boys have you in your wholesale business?

A. I should think about ten or twelve.

Q. That is——

A. But I have other boys besides that; for instance, I handle the "Boston American." There are a great many that come in and buy them and sell them on the streets.

Q. How many boys do you distribute to in your wholesale business, both magazines and newspapers?

A. I should say twenty-five or thirty.

Q. How many so-called Curtis boys have you?

A. I think about six or seven.

Q. By Curtis boys, so-called, what do you mean?

A. Boys that sell exclusively Curtis publications.

Q. You do, however, serve Curtis publications to boys who handle other magazines?

A. No; I do not think any of the others do. The boys do not handle the magazines for me.

Q. What do they handle?

A. Newspapers, mostly—in fact, altogether.

Q. These boys who handle newspapers, also handle Curtis publications?

A. No, sir; they do not.

Q. You only have those boys you distribute the Curtis publications to?

A. Yes, sir.

Q. Did you get these boys yourself?

A. You mean the Curtis boys?

Q. Yes.

A. Why, I think two or three of them, and I do not know but the Curtis people got them by sending them letters and advertising for them.

Q. How many of them did you get?

A. I should say three.

Q. Did you receive at any time, any money from the Curtis Company for getting those three?

A. No.

Q. Did you ever receive any money for instructing these boys how to sell Curtis publications?

A. No, sir.

Q. Did you ever instruct them as to how to sell Curtis publications?

A. Yes, I would. I would call their attention to certain articles that would appear in them, and ask them to call them to the customer's attention, and see if they could not get the customers.

Q. Did you ever instruct them—the newsboys—how to sell newspapers?

A. Yes, sir.

Q. Did you ever visit the homes of any of these boys?

A. No; I did not.

Q. Did you ever visit any of the schools in reference to getting boys for the Curtis Company?

A. Yes, I have.

Q. How often?

A. Why, I think I have done it a couple of times—tried to get the names of boys that I thought would be of benefit.

Q. In how many years?

A. That is, within ten years, probably.

Q. Twice you have done that?

A. I should say so.

Q. Was it because the Curtis people had given you the name of a certain boy that you went to the school, or did you go to the school to get a boy?

A. I went to the school and asked the teachers if they could give me a list of the boys, and out of that list I would pick them.

Q. Out of the list you would get how many boys?

A. Perhaps two or three.

Q. Are you the only wholesaler of Northampton?

A. Yes, sir.

Q. What equipment have you?

A. I have a store.

Q. Yes; but I mean for delivery.

A. Why, I deliver by an automobile and by team.

Q. How much do these boys pay you per copy of "The Saturday Evening Post"?

A. Three cents.

Q. Has that always been the price?

A. Yes, sir.

Q. How much do they pay you for "The Ladies' Home Journal"?

A. They pay eleven cents.

Q. And they pay you in cash for each copy they get—is that the idea?

A. Yes, sir.

Q. Do you know how the American News Company delivers in Northampton?

A. They send their packages by what we call the Boston-Springfield express.

Q. By what—what mode is that—a man on an express wagon, or what?

A. They deliver their magazines to this express company in the afternoon, and they come that night to Northampton in a freight car, and it is delivered by their company in the morning.

Q. By the express company?

A. Yes, sir.

Q. Do they collect for it?

A. Yes, sir.

Q. Who pays the charges on this?

A. I do.

Q. What do you mean by you do?

A. That is, each dealer who receives a bundle.

Q. When you act as a retailer, you mean—is that the idea?

A. Yes; that bundle comes to us every day from the News Company, and we pay so much a week to the express company for carrying it.

Q. Do you charge anything for the publications you deliver to your retailers?

A. Yes.

Q. What charge do you make them?

A. Well, no; each dealer—some of the dealers pay for their own bundles, and draw through the American News Company.

Q. You misunderstood me. When you deliver the

Curtis publications through a retailer by automobile, do you charge him anything for the delivery?

A. No; I do not.

Q. The charge you had in mind was that the News Company charged the retailer the express charges on the publications he receives?

A. Exactly; yes, sir.

Q. How far is the branch of the American News Company from Northampton?

A. About twenty miles.

Q. When the express company delivers the American News Company packages, does it make the collections at the same time, or how is that arranged?

A. Under that arrangement I pay him every two weeks.

Q. Pay whom?

A. The express people.

Q. For the periodicals?

A. Yes, sir.

Q. Is that the only time you see him, when he comes around to collect?

A. Every morning when he delivers the bundle.

Q. That is, the express company man?

A. Yes, sir.

Q. When you have sold out and want other publications, what do you do?

A. I order from the News Company, and they put them in one of those bundles.

Q. Does the American News Company do anything to find out whether or not your supplies are getting low and they ought to be replenished, or do you have to do that the same as any other retailer?

A. I do that myself.

Q. What do you do about supplying retailers for Curtis publications—do you go around and keep in touch with the trade?

A. Yes, sir.

Q. Do you handle the "Every Week" magazine?

A. No; I do not.

Q. Have you ever been approached to handle it?

A. Yes, sir.

Q. How long ago is it since you have been approached to handle it?

A. I should say there was an agent three or four weeks ago to see me in regard to it.

Q. Have you made arrangements to handle it?

A. Yes, I have.

Q. How long ago has it been since you made that arrangement?

A. Why, I should say about that time—three weeks ago.

Q. Have you done anything since then in connection with the arrangement?

A. No; I have not.

Q. Do you contemplate doing anything?

A. Yes, I do.

Q. What do you contemplate doing?

A. I thought I would see the Curtis people in regard to it and ask what their attitude was.

Q. Do you know what the attitude of the Curtis Company is in reference to your handling other publications?

A. The only thing I know is that the agent of "Every Week" told me they had no objections, and I told him if they had not, I would handle it.

Q. You have not found out whether they have or not?

A. No, sir.

MR. SPIESS: That is all.

EXAMINER MOORE: You may cross-examine.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. What was your business in 1905, when you first took up the Curtis agency?

A. Books and stationery and newspapers.

Q. At that time, when you took the Curtis agency, you were not wholesaling any magazines?

A. In 1905—no, I do not think I was.

Q. How many dealers do you supply?

A. Why, four dealers only, in Northampton.

Q. When you got this list of boys from the school, what did you do with the list?

A. Why, I never got any list; simply I put it on my sales report—these new boys that were added—and sent them in.

Q. To the Curtis Company?

A. Yes; each week, on their reports.

Q. You said that about twenty years ago—which would be some time before you took the Curtis agency—for a time you had handled some Munsey periodicals?

A. Yes, sir.

Q. Did you do that as an accommodation for the dealer or some dealers that asked for them, or what?

A. I did it to accommodate that dealer.

MR. MILBURN: I think that is all.

RE-DIRECT EXAMINATION.

By MR. SPIESS:

Q. What do you mean you did it for the accommodation of some dealer?

A. Why, this dealer that I had reference to was a very old gentleman who had been in business for years, and he did not do as large a business as I did, and, if I remember rightly, he asked if I would furnish him those magazines.

Q. Did you furnish them?

A. Yes, sir.

Q. Did you make any profit on furnishing them?

A. Why, a very small one.

Q. But you did make a profit?

A. I think so.

Q. Was it any accommodation to you?

A. Why, I done it to accommodate him more than anything else. He is a man I worked for at one time and started in business——

By Mr. Milburn:

Q. Those copies you got for him, you got from the News Company?

A. No; I got them direct from Munsey.

Mr. Milburn: That is all.

---

R. E. Gerth was called as a witness on behalf of the Commission, and being duly sworn by the Examiner, testified as follows:

Direct Examination.

By Mr. Spiess:

Q. Where do you reside, Mr. Gerth?

A. New Britain.

Q. Connecticut?

A. Yes, sir.

Q. You are the manager of Mrs. E. H. Chatfield of New Britain?

A. Yes, sir.

Q. You are here at her direction, in answer to a subpoena which was sent by the Federal Trade Commission to Mrs. Chatfield?

A. I am.

Q. You are familiar with the business in which Mrs. Chatfield has been engaged for a number of years?

A. Yes; especially the Curtis publications.

Q. How long has Mrs. Chatfield been engaged in the wholesale business?

A. Twenty years or more.

Q. How long has she been under contract with the Curtis Publishing Company?

A. Since 1914.

Q. Before that what did she wholesale?

A. Newspapers.

Q. What else?

A. Practically nothing but newspapers, as a wholesaler.

Q. You say practically——

A. No, sir; nothing but newspapers, wholesale.

Q. Since she has been under contract with the Curtis Company, what other magazines has she been handling?

A. The magazines published by the Hearst people—the so-called Hearst magazines.

Q. What else?

A. Nothing else.

Q. So she is only wholesaling newspapers, the Curtis publications and the Hearst publications?

A. Yes, sir.

Q. How long has she been handling the Hearst publications?

A. About two years.

Q. Did you get permission from the Curtis Company to handle Hearst publications?

A. She got the word of the representative of the "New York American" that it would be perfectly all right to handle the Hearst magazines.

Q. Did she ask the Curtis Company?

A. She did not.

Q. Did Mrs. Chatfield ever handle the "Pictorial Review"?

A. Not as the agent.

Q. How did she handle it?

A. Merely as a retailer.

Q. Was she ever approached to handle it?

A. She was.

Q. What did she do when approached?

A. The first time she agreed to take the agency, after pretty strong persuasion on the part of the representative. Later she considered it would be at variance with the terms of her agreement with the "Post" people, and after talking with me, she decided she did not care to handle it.

Q. And she so notified the "Pictorial" people?

A. I tried to notify the people——

Q. Just answer the question.

A. She did.

Q. Are you familiar with Mrs. Chatfield's signature?

A. Yes, sir.

MR. MILBURN: There is no objection to that letter, Mr. Spiess.

By MR. SPIESS:

Q. Is that the signature of Mrs. Chatfield (exhibiting paper to witness)?

A. Yes; that is her signature.

MR. SPIESS: I now offer in evidence a letter dated New Britain, Conn., March 16, 1917, signed by Mrs. E. H. Chatfield, in reference to not handling the "Pictorial Review."

EXAMINER MOORE: The letter is admitted without objection.

(The letter referred to was thereupon received in evidence and marked by the stenographer, "Commission's Exhibit No. 60," and the same is as follows):

COMMISSION'S EXHIBIT No. 60.

"New Britain, Conn., Mch. 16, 1917.

Gentlemen:

I am sorry but I cannot wholesale your magazines as it conflicts with my other contracts. If

you choose, you may send mine direct, but I cannot supply other dealers. My order is 65 copies.

Very respectfully,

(Signed) Mrs. E. H. Chatfield."

By Mr. Spiess:

Q. How many boys do you supply with newspapers or magazines?

A. Between fifty and sixty.

Q. Have you some Curtis boys?

A. Yes, sir.

Q. What is a Curtis boy, to your way of thinking?

A. One that sells purely Curtis publications.

Q. How many of those boys have you?

A. Between twenty-five and thirty.

Q. And do any of these boys sell newspapers?

A. Yes, sir.

Q. How many of those twenty-eight sell newspapers?

A. Three or four; I should say four.

Q. Three or four of those boys sell newspapers?

A. Yes, sir.

Q. Do they sell magazines besides Curtis magazines, or handle any Hearst magazines?

A. We have two boys that handle the Hearst magazines.

Q. Twenty-five or twenty-six of those twenty-eight that handle something besides Curtis publications exclusively?

A. They might not come out of the twenty-eight.

Q. Do they?

A. No, sir, they do not.

Q. You have twenty-five to thirty boys who handle Curtis publications exclusively?

A. Four of which handle newspapers.

Q. Four of which?

A. Yes, sir.

Q. Do you wholesale candies or gum, or anything like that?

A. No, sir, we do not.

Q. Can you tell me whether or not the contract between Mrs. Chatfield and the Curtis Company was ever terminated at any time?

A. The original contract was terminated. There were two agreements made.

Q. How long ago was that?

A. In 1913.

Q. Do you know for what reason that contract was terminated?

A. It was terminated upon the—the Curtis Company terminated it without any other reason except she was not attending to the circulation of their magazines properly, and they saw a chance to better themselves.

Q. When did they make another agreement with Mrs. Chatfield?

A. In the fall of 1914.

Q. And do you know what was the cause of their coming back to Mrs. Chatfield?

A. The insolvency of their former agent.

Q. You are still under contract with them?

A. We are.

Q. Have you ever visited any homes of these Curtis boys to see their families?

A. No, sir.

Q. Have you ever gone to any of the schools to see the principals of the schools, in reference to these boys?

A. No, sir.

Q. Do you know whether Mrs. Chatfield ever did?

A. Yes, sir.

Q. She has?

A. No, sir.

Q. Did either you or Mrs. Chatfield ever receive any money from the Curtis Company for obtaining these boys?

A. No, sir.

Q. Did you or Mrs. Chatfield ever receive any money for instructing these boys to efficiently dispose of Curtis publications?

A. No, sir.

MR. SPIESS: That is all.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. How long have you been employed by Mrs. Chatfield?

A. I am a member of the family and have been directly interested in the business for a year.

Q. For the last year?

A. For the last year; yes, sir.

Q. Their contract was terminated. When was it resumed?

A. October, 1914, I think.

Q. You said you are familiar with the business, and especially familiar with the business of handling the Curtis publications?

A. Yes, sir.

Q. Does that business take you over the books, so that you are familiar with the financial end?

A. Yes, sir.

Q. Can you state whether or not definitely, Mrs. Chatfield in 1917 received four dollars for getting four new boys?

A. Are not those what you call bonuses? I know of four dollars in bonuses.

Q. Did that have anything to do with getting new boys?

A. If we had not gotten the boys, we would not have gotten the bonuses.

Q. Under what plan was that done?

A. That is to encourage the obtaining of new boys.

Q. When you get a new boy and the boy sells a certain number of copies, you receive a dollar—is not that so?

A. Yes; that is right.

Q. Then also these boys are members of the Curtis League, are they not?

A. They are.

Q. And they have certain promotions for capable salesmanship in that league?

A. Yes, sir.

Q. And for those promotions Mrs. Chatfield has received sums of money from the company, has she not?

A. Yes, sir.

Q. Can you tell me, from your knowledge, whether in the last year, she received $28?

A. There is nothing in the records to show that.

Q. You cannot testify from your own knowledge as to that?

A. No, sir.

Q. You know she has received some money from the Curtis Publishing Company under that head?

A. Yes, I do.

RE-DIRECT EXAMINATION.

By MR. SPIESS:

Q. When you received those four dollars for the boys' services, was that for the boys selling so many copies?

A. After the boys made good——

Q. Just answer the question.

A. Yes, sir.

Q. So many copies—is not that the idea?

A. Yes, sir.

Q. Do you know how many copies there were for each dollar?

A. I think forty.

Q. Forty copies?

A. Yes, sir.

Q. And in this case, were there four boys that sold forty Curtis publications?

A. Yes, sir; I believe so.

Q. Now, after the four boys had sold these forty copies and you had received four dollars, did you obtain any more Curtis boys on the strength of that proposition?

A. Not on the strength of that proposition, no, sir.

Q. Just describe how many boys have been promoted in the so-called Curtis League under your supervision?

A. Our records do not show that and I cannot testify as to how many have been promoted.

Q. Have any ever become expert salesmen?

A. I do not know of any.

MR. SPIESS: That is all.

RE-CROSS-EXAMINATION.

By MR. MILBURN:

Q. For these forty copies of publications sold, you get your commission just the same, in addition to the four dollars?

A. Yes, sir.

Q. It fixes the time of the payment of the four dollars?

A. Yes, sir.

MR. MILBURN: That is all.

MR. SPIESS: That is all.

JAMES S. SMITH was called as a witness, and having been duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. SPIESS:

Q. What is your address, Mr. Smith?

A. 19 Kilton Street, Taunton, Massachusetts.

Q. You are here in the capacity of manager of George A. Wood, wholesaler of periodicals and magazines, of Taunton, Massachusetts?

A. Yes, sir.

Q. You speak from authority of Mr. Wood in this inquiry?

A. Yes, sir.

Q. How long has Mr. Wood been in the wholesale business?

A. To the best of my knowledge, about thirty years.

Q. How long has he been under contract with the Curtis Company?

A. I think since 1911.

Q. His first contract was in 1911, you think?

A. I believe so; I am not absolutely sure of that.

Q. Now, prior to the time that Mr. Wood entered into a contract with the Curtis Company, did he wholesale any other magazines?

A. I could not say accurately whether he did or did not. To the best of my knowledge he did not, although sometimes I think he did at one time sell "Munsey's." But I am not sure.

Q. Since handling the Curtis publications, has he taken on any new magazines?

A. He took on the Hearst group—the "Cosmopolitan."

Q. The Hearst group, you say?

A. Yes, sir.

Q. How long ago has that been?

A. About four years ago.

Q. Now, you say he has been handling the Hearst magazines for four years. Did he get permission from the Curtis Company to handle these magazines?

A. No, sir.

Q. Did he ask for permission?

A. Not that I know of.

Q. Was anything said by the Curtis representatives to you, as to handling the Hearst magazines?

A. No, sir.

Q. Did he ever handle the "Pictorial Review"?

A. Not as wholesalers.

Q. Was he ever approached to handle "Pictorial Review"?

A. Yes, sir.

Q. What did he do after he was approached to handle "Pictorial Review"?

A. He told me on my trip to Boston, to speak to Mr. Flanders about it. He told me on my trip to Boston, which was on the 15th of the month, to speak to Mr. Flanders about it.

Q. What month?

A. I think it was March.

Q. What did you do—did you speak to Mr. Flanders?

A. Yes, sir.

Q. About Mr. Wood handling the "Pictorial Review"?

A. Yes, sir.

Q. What did he say?

A. He said the Curtis Company had a clause in their contract, which he claimed stated there were certain magazines that were—I could not state the con-

versation, but he objected to Mr. Wood handling the "Pictorial Review."

Q. Did he say anything at this talk about Mr. Wood forfeiting his bond that he had with the Curtis Company, if he did handle "Pictorial Review"?

A. No, sir.

Q. Did Mr. Wood, to your knowledge, ever have a conversation with Mr. Flanders?

A. Yes, sir.

Q. When?

A. Some time after that. Mr. Wood went to Boston and I believe that he saw Mr. Flanders, and Mr. Wood told me——

MR. MILBURN: Mr. Wood is not here.

MR. SPIESS: If he is here on the authority of Mr. Wood and speaks for Mr. Wood—of course, you know he is his manager——

MR. MILBURN: Yes; on the details of the business there is no objection, but it seems to me the precise conversation between Mr. Flanders and Mr. Wood——

MR. SPIESS: Mr. Wood came back and told him what the conversation was between him and Mr. Flanders.

MR. MILBURN: I will withdraw that objection.

By MR. SPIESS:

Q. You may answer.

A. He informed me that—Mr. Flanders spoke of a cash bond which was forfeited by breaking his contract.

Q. What did Mr. Wood decide to do after you and he had these conversations in reference to Mr. Flanders, about the "Pictorial Review"?

A. He decided he would not handle it.

Q. Did you handle "Every Week"?

A. No, sir.

Q. Have you ever been approached to handle it?

A. Yes, sir.

Q. What have you done in reference to handling it?

A. Well, I have not done anything until today. I meant to see Mr. Flanders regarding it.

Q. Did you see Mr. Flanders regarding it?

A. No, sir; but I meant to see him.

Q. Now, you did order, did you not, one issue of "Pictorial Review" from the Pictorial Company?

A. Yes, sir.

Q. Did you distribute that issue?

A. Yes, sir.

Q. Did you see Mr. Flanders or any representative of the Curtis Publishing Company before you did distribute it?

A. Well, can I explain?

Q. Sure; go ahead.

A. I believe there was a meeting of the news dealers in Boston, and at that meeting I listened to a conversation and decided I could get around the contract by accepting the agency myself. I therefore did accept the agency in my name and ordered that issue of the "Pictorial."

Q. In your name?

A. Yes, sir.

Q. Now, what happened?

A. Well, I distributed that issue, and shortly after that Mr. Wood received a letter from the Curtis Publishing Company—I cannot quote the letter, but to my best recollection it said that at a certain date Mr. Wood ceased to be the agent of the Curtis Publishing Company.

Q. What happened after that?

A. I journeyed to see Mr. Flanders.

Q. Go ahead.

A. And I agreed not to further order any "Pictorial Reviews"; in other words, to drop the agency.

Q. What happened to the withdrawal of the Curtis agency from Mr. Wood?

A. There was no withdrawal.

Q. There was no withdrawal?

A. No, sir.

Q. When you saw Mr. Flanders in reference to this matter of your handling "Pictorial Review," what did he say?

A. He said "You know it is just the same; you promised not to handle this thing, and you broke your word"—of course I did in a way.

Q. Did you promise?

A. I did not promise. I promised in a way—I promised that Mr. Wood would not handle it.

Q. Did you promise as manager, that Mr. Wood would not handle it?

A. Yes, sir.

Q. Were you handling it on behalf of Mr. Wood, or on behalf of yourself?

A. To be truthful, I was handling it for Mr. Wood. It was his business, and I was handling it in my name only.

Q. Did Mr. Flanders know that?

A. He did not know it, but he suspected it.

Q. Did he ask you whether or not you were handling it in the name of Mr. Wood or yourself?

A. I could not say for sure.

Q. Do you recall whether or not he told Mr. Wood if you did not give it up, he would take away Mr. Wood's agency—is that the substance of the conversation he had with Mr. Wood?

A. I could not say for sure.

Q. What did Mr. Wood say to you about this when he came back from Boston?

A. He said, "Well, it is all off; you might as well give up the 'Pictorial'." Of course, there is a lot of reading between the lines, but that was enough said to give us the idea.

Q. I now show you a letter dated Taunton, Massachusetts, July 6th, 1917, signed James F. Smith, and ask if that is the letter you wrote to the Pictorial Review Company, in reference to not handling their magazine (handing paper to witness)?

A. Yes, sir.

MR. SPIESS: I offer this in evidence.

(The letter referred to was thereupon received in evidence and marked by the stenographer, "Commission's Exhibit No. 61," and the same is as follows):

COMMISSION'S EXHIBIT No. 61.

(Letterhead of George A. Wood.)

"Taunton, Mass., July 6, 1917.

Mr. B. A. Mackinnon,

Dear Sir:

My order of Pictorial Reviews arrived here in Taunton this A. M. also a letter from Curtis Pub. Co. informing us of their victory over the Pictorial Review Co. in recent Court action.

Would say owing to this fact together with a recent talk with Mr. Flanders of the Curtis Pub. Co., in fairness to Mr. Wood I must decline to accept copies of Pictorial.

I have tried very hard to get ahead with fairness to all concerned but find it impossible at this time to continue. The Express Company has your copies and will hold them until they hear from you.

Send me your bill and I will forward check for amount I owe. Anything I can do to help you

other than sell the copies, I will be very glad to do.

Yours very truly,
(Signed) JAMES F. SMITH."

EXAMINER MOORE: The letter is received in evidence without objection.

By MR. SPIESS:

Q. Are you the only wholesaler in Taunton?

A. Yes, sir.

Q. That is, an independent wholesaler?

A. Yes; outside of one man who sells the "Pictorial."

Q. Have you any equipment?

A. Yes, sir.

Q. What is your equipment?

A. We rely mostly on the electric cars, but we have a horse and team.

Q. How many retailers are there in your locality?

A. I have eight that I supply with magazines, and about fourteen with papers.

Q. How many are there in the town?

A. About fourteen.

Q. You supply all of them with papers or magazines?

A. Yes, sir.

Q. Can you state, from your own knowledge, how many of them the American News Company supplies?

A. The American News Company does not supply any.

Q. None of them at all?

A. No, sir.

Q. How about the branch of the American News Company?

A. They do not have a branch; there is a news-

stand in the depot—outside of that they do not supply any.

Q. Is that the only one the American News Company supplies?

A. Yes, sir.

Q. How many boys do you furnish magazines or newspapers to?

A. A total, I should say of thirty.

Q. Do you know what a so-called Curtis boy is?

A. Why, one that only sells the Curtis Publishing Company magazines.

Q. How many socalled Curtis boys have you?

A. Well, about sixteen.

Q. About sixteen?

A. Yes, sir.

Q. Did you obtain any of these boys yourself?

A. Yes, sir.

Q. How many did you obtain?

A. About three, I should say.

Q. How much did you receive from the Curtis Publishing Company for obtaining these boys?

A. Nothing.

Q. Have you ever received any money from the Curtis Publishing Company for obtaining boys?

A. Not to my knowledge.

Q. Well, you would know if you had, would you not?

A. I should say so; yes, sir.

Q. Have you ever received any money for coaching or lecturing these Curtis boys, so called, on how to properly sell Curtis publications?

A. No, sir.

Q. Have you ever visited any of their homes or schools?

A. No, sir.

MR. SPIESS: That is all.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. Does not the American News Company supply some of these dealers with magazines, other than the Curtis publications?

A. Yes, sir.

Q. Is there not a wholesaler there called Cary, in Taunton?

A. No, sir.

Q. Or one called Carlow?

A. Yes, sir.

MR. MILBURN: That is all.

RE-DIRECT EXAMINATION.

By MR. SPIESS:

Q. You say Carlow is a wholesaler?

A. No, sir; I did not understand the gentleman's question that way.

By MR. MILBURN:

Q. I asked if you knew of a wholesaler there called Carlow?

A. I misunderstood that. Carlow does not wholesale magazines.

Q. What does he do?

A. He buys magazines from the American News Company.

Q. Is there not a wholesaler by the name of Carle?

A. The name is Henry Coyle.

Q. He is a wholesaler?

A. Yes, sir; of the "Pictorial."

Q. Do you know what equipment Mr. Coyle has for the distribution of the "Pictorial"?

A. He has no equipment. He was formerly the distributor of the "Boston Herald," and now we are the distributor of the "Boston Herald," and he has nothing left but the "Pictorial Review." He distributes by carrying them to the stores himself.

MARTIN KORB, was called as a witness on behalf of the Commission, and having been duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. What is your name and address?

A. Martin Korb; 222 West Thirty-ninth Street, New York City, New York.

Q. What is your occupation?

A. Traveling representative and traffic manager of the Pictorial Company.

MR. DALY: Mr. Examiner, the testimony of Mr. Korb will be the last testimony that will be presented by the Government at this hearing, and Mr. Milburn suggests that probably Mr. Welch would want to cross-examine at some length, for the reason that Mr. Welch has been handling this particular line of the case, and suggests that that be permitted. Now, in that case, I think it would be just as well to hold Mr. Korb's testimony until we return to New York, with the understanding that we will put him on there and Mr. Milburn or Mr. Welch can cross-examine him.

(After consultation between counsel, the witness was excused.)

---

EDWARD P. HUNT, was recalled as a witness, and having been previously duly sworn, testified further as follows:

By MR. DALY:

Q. Did you hear the testimony of Mr. Martin this morning?

A. No, sir; I did not.

Q. Mr. Martin testified that he had a conference

with several wholesalers with Mr. Douglas, Mr. Douglas being present with Mr. Martin; that Mr. Douglas stated that he would not hold the wholesalers to this clause 13 in the contract; were you present at any such meeting with Mr. Douglas and Mr. Martin?

A. I think that is a reference to a meeting that was held in——

Q. Answer if you were present.

A. Yes.

Q. Where was this meeting held?

A. In the Christian Science Monitor Building.

Q. When was that?

A. Oh, that would go back, I should say, four or five years.

Q. Four or five years ago?

A. Yes, sir.

Q. Did you hear Mr. Douglas make such a statement that I have called your attention to?

A. His statement was what?

Q. That he would not hold the wholesalers to this clause 13 of the contract, if they signed up.

A. Yes, sir; I remember that.

Q. You heard that?

A. Yes, sir.

Q. You heard Mr. Douglas state that?

A. Yes, sir.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. You have had some interviews with Mr. Flanders since that time in reference to that?

A. Yes, sir.

Q. Have you had any conference with Mr. Douglas since then?

A. No, sir.

Q. Did you ever mention to Mr. Flanders that Mr. Douglas told you he would not enforce the contract?

A. No, I never did.

Q. On the contrary, your interviews were in reference to complaints because Mr. Douglas was enforcing it—was not that the fact?

A. I do not know as I quite catch the question.

Q. Your interviews with Mr. Flanders were complaints about the contract being in force?

A. Yes, sir.

MR. MILBURN: That is all.

MR. DALY: That is all.

---

MR. DALY: I suggest, if it is agreeable to counsel on the other side, that the day to which we adjourn these hearings, be fixed by agreement of counsel, and if counsel cannot agree, that the Commission shall fix the time.

MR. MILBURN: You mean about the next hearings?

MR. DALY: Yes, sir.

(After some informal discussion, an adjournment was taken to a time to be fixed later by agreement of counsel.)

BEFORE THE FEDERAL TRADE COMMISSION.

---

*Federal Trade Commission*, Complainant,
v.
*Curtis Publishing Company*, Respondent.
} Docket No. 15. Room 603, Federal Building.

---

Chicago, Illinois, Wednesday, January 16, 1918.
10.45 A. M.

---

The above-entitled matter came on for hearing before ATTORNEY-EXAMINER CHARLES S. MOORE, pursuant to agreement.

---

Present: A. M. DALY, ESQ., and

L. A. SPIESS, ESQ., on behalf of the Federal Trade Commission; and

JOSEPH W. WELCH, ESQ., and

JOHN G. MILBURN, JR., ESQ., for the Curtis Publishing Company.

---

JEROME B. SHIVELY, was called as a witness on behalf of the Commission, and being first duly sworn, by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Give your full name and address.

A. Jerome B. Shively, S-h-i-v-e-l-y; LaFayette, Indiana.

Q. How large a place is LaFayette, Indiana?

A. Twenty-five thousand.

Q. What is your business, Mr. Shively?

A. Wholesale news dealer.

Q. Are there other wholesale news dealers in your city or not?

A. No, sir.

Q. Only one?

A. Yes, sir.

Q. How long have you been in that business?

A. Two years.

Q. And what do you sell?

A. Chicago and Indianapolis papers, Curtis Publishing Company, the Hearst magazines, "Collier's," and a few smaller publications.

Q. You mean the Curtis Publishing Company's magazines?

A. Magazines; yes, sir.

Q. When you went into business, did you take all of those on or not?

A. No.

Q. How did you do that, what did you do about that?

A. The agency did not include the publications of the Curtis Publishing Company at the time I took it over.

Q. You had other magazines, did you, when you took it over?

A. Yes, the Hearst publications.

Q. When you said you took it over, what do you mean by that?

A. I transferred the agency from the man who had owned it before.

Q. And there were other—he was handling other magazines, is that what you mean?

A. Yes, sir.

MR. WELCH: Now, who was handling other magazines?

MR. DALY: The other man.

MR. WELCH: I object to that, as to his statement as to what the other man was handling.

MR. DALY: Well, I will withdraw that, if there is any objection about it.

MR. WELCH: Move to strike it out.

By MR. DALY:

Q. And then you started, as I understand it, with other——

MR. WELCH: Just a moment.

By MR. DALY:

Q. What magazines did you sell?

MR. WELCH: Don't lead him so much.

By MR. DALY:

Q. When you took on the agency?

A. "Cosmopolitan," "Hearst's," "Harper's Bazaar," "Motor," "Motor Boating," "Collier's" and "Breezy Stories."

Q. Have you a contract with the Curtis Publishing Company?

A. Yes, sir.

Q. Do you know about the date of that contract?

A. Some place within the last thirty days.

Q. You have made a contract with them within about thirty days?

A. Yes, sir.

Q. Now, during what period of this time have you handled the Curtis publications?

A. (No response.)

Q. When did you first begin to handle Curtis publications?

A. I don't remember the exact day.

Q. Well, about when?

A. It was in the spring of 1916.

MR. WELCH: When?

THE WITNESS: It was in the spring of 1916.

By Mr. Daly:

Q. Well, now, will you make it clear? You say you have been in business for about two years. Now, I want to know when you began to handle the Curtis publications; in the spring of 1916, is that correct?

A. Yes, sir.

Q. Now, when did you first go into business?

A. January 1, 1916.

Q. Yes. Now, then, in the spring of 1916, then, didn't you make a contract with the Curtis Company?

A. Yes, sir.

Q. And did that contract, or not, have a provision in it, section 13 in it, that is in controversy in this case, about handling other magazines?

A. Yes, sir; it did.

Q. Do you handle the "Pictorial Review"?

A. No, sir.

Q. Were you asked to handle it?

A. Yes, sir.

Q. Why didn't you take it on?

A. I wrote the Curtis Publishing Company asking permission, and I understood from the tone of their letter that in case——

Mr. Welch: Now, I object.

By Mr. Daly:

Q. Well, wait a minute. Have you that correspondence?

(The witness produces papers and hands same to Mr. Daly.)

Q. Have you the letter that you wrote them?

A. No, sir, I have not.

Mr. Daly: Have you gentlemen the letter that he wrote with reference to that (addressing counsel for the respondent)?

Mr. Milburn: I think that is it (handing paper to Mr. Daly).

By MR. DALY:

Q. Will you look at that letter, Mr. Shively (handing same to the witness)? Is that the letter you wrote to the Curtis Publishing Company?

A. Yes, sir.

MR. DALY: We offer that letter.

MR. WELCH: What is on the back of that?

MR. DALY: Let me see what is on the back of that. I am just offering the letter to the Curtis Publishing Company dated the 2/27/17.

EXAMINER MOORE: The letter is admitted without objection.

(The letter was received and marked "Commission's Exhibit No. 62," the same being in words and figures as follows, to wit):

"2/27/17.

The Curtis Publishing Co.,
Attention—Agency Superintendent.

(Rubber stamp) 'Referred to
Mar. 1-1917
F. M. B.'
(Rubber stamp) 'Mar. 1, 1917.
Daily Mail.'

My dear Sir:

Attached is correspondence received from Pictorial Review in re: taking on the agency on their publication.

(Rubber stamp) 'Answered
Mar. 2, 1917.
M. E. D.'

Please advise me your attitude on the proposition.

Inasmuch as they do not intend trying to develop a boy organization I feel that their publication will in no way compete or interfere with my

Curtis organization but want your view of the matter.

Very truly yours,

J. D. SHIVELY,
18 No 4th St.,
Lafayette, Ind.

(Rubber stamp)
'Daily Mail
Mar 1-1917
Scatter.'

(The above in pen and ink.)
(In pencil) 'M E D' "

---

"THE PICTORIAL REVIEW COMPANY.
The Pictorial Review Building
216-226 West 39th Street
New York

February 14, 1917.

Circulation Department.
Mr. J. D. Shively,
25 North 3rd Street,
Lafayette, Ind.
Dear Mr. Shively:

The attached circular letter tells a most interesting story for you—the story of more profits.

Am I right in believing the independent wholesalers can give Pictorial Review better service and better sales. Your reply will be as interesting to me as my letter may be to you.

Sincerely,

B. A. MACKINNON,
*Circulation Director.*

(In ink) '(Over)'

(Rubber stamped. 'Received
Mar 1 1917
F. M. B.')"

By Mr. Daly:

Q. Did you receive a reply to that letter, Mr. Shively?

A. Yes, sir.

Q. Will you look at that letter (handing paper to the witness); is that the reply?

A. Yes, sir.

Mr. Daly: Any objection to that? (Addressing opposing counsel.)

Mr. Welch: No.

Mr. Daly: We offer the reply, dated March 3, 1917.

Examiner Moore: The reply is admitted without objection.

(The letter was received and marked, "Commission's Exhibit No. 63," the same being in words and figures as follows, to wit):

"The Curtis Publishing Company

Independence Square

Philadelphia

*The Ladies' Home Journal*

*The Saturday Evening Post*

*The Country Gentleman*

Sales Division
Circulation Department
M. E. Douglas, Manager.

March 3, 1917.

Mr. J. D. Shively,
18 North Fourth Street,
Lafayette, Indiana.

Dear Mr. Shively:

In reply to your letter dated February 27:

Our mutual interests, yours and ours in common, will be best served by your not making any

arrangements to wholesale the other periodical referred to.

One fundamental fact stands out prominently: There is a limit to the number of periodicals seeking circulation among readers of the same class, which a District Agent can handle without taking on the limitations of a branch of the news company. We have District Agents because we need representatives free from such limitations. You are our valued representative because you have heretofore been free from such limitations.

That you may get our exact shade of meaning, let me quote from a letter recently mailed to a Curtis District Agent in another state, of whose loyalty to us we were not wholly confident as we are of your loyalty.

In this letter to the other District Agent we said:

'If you undertake it (wholesaling the other periodicals mentioned), directly or indirectly, we should wish to cancel your arrangement with us.'

There is nothing temporary or uncertain about our policy of continued direct supplies to District Agents including you, in accordance with our contracts; and our mutual interests, yours and ours alike, will be best served by the maintenance of methods and policies above mentioned.

At your convenience in the course of a few days, we shall be very glad to have you tell us what is your preference with respect to the continuance of the very pleasant relations which have so long existed between us.

We are much interested in any increased local effort for larger sales of *The Country Gentleman* and are willing and anxious to pay handsome, lib-

eral bonuses for increases in net sales of *The Country Gentleman* during months to follow.

With kind personal regards,

Very truly yours,

THE CURTIS PUBLISHING COMPANY.

(Signed) J. F. Donnelly,

*District Manager.*

Dictated by

MED SM

M. E. Douglas."

(The above in typewriting.)

By MR. DALY:

Q. Then you did not take on the "Review," as I understand it?

A. No, sir.

Q. Do you handle "Every Week," Mr. Shively?

A. No, sir.

Q. Were you ever approached by that company, or one of their representatives, asking you to take that publication on, or not?

A. Yes, yes, sir.

Q. Did the Curtis publications——

MR. WELCH: Now, don't lead the witness.

By MR. DALY:

Q. What happened about that; did you take it on?

A. I had previously had the agency for "Every Week," and at the time I had it before it was not moving rapidly enough and I did not wish to handle it. The second time I turned it down on my own initiative.

Q. Have you a boy organization, Mr. Shively?

A. Yes, sir.

Q. How many boys have you?

A. Approximately a hundred.

Q. Of that number, how many are exclusively Curtis boys?

A. About twenty.

Q. What do you understand by a "Curtis boy"?

A. A boy that sells the Curtis publications exclusively.

Q. What do these other boys sell?

A. Newspapers.

Q. Now, when you took—made this contract with the Curtis Publishing Company that you have testified about, how many Curtis boys were turned over to you by them, if any, or at that time, by the Curtis Company, if any?

A. You mean the original contract? I——

Q. Yes.

A. There were about six or eight boys turned at that time.

Q. Are those boys still with you, or not?

A. No, not a one of them.

Q. Now——

MR. WELCH: What was that last?

MR. DALY: "Are any of these boys still with you?"

MR. WELCH: Oh, yes.

MR. DALY: He said no.

By MR. DALY:

Q. What do these other boys sell?

A. They sell morning papers, evening papers, Sunday papers, and they deliver routes on morning and evening and Sunday papers.

Q. How do you handle these other magazines that you have testified about?

A. They are all handled through dealers.

Q. And any through boys, is that correct?

A. Yes, sir.

Q. You cover all the dealers in your city, do you?

A. With three exceptions.

Q. How many dealers are there?

A. Twenty.

Q. Describe the efforts that the Curtis Publishing Company have made to furnish you boys.

MR. WELCH: I object to the form of that question.

By MR. DALY:

Q. What did the Curtis Publishing Company do about furnishing you boys, if anything?

A. Their representative has at different times gone out to schools, has obtained a list of boys in certain grades of the schools, and mailed them cards. In some cases, when the answers to the cards were received, he has gone out and called on those boys, brought them into my office, or talked to them at home, so that they came in of their own accord.

Q. And you have about twenty, have you?

A. Yes, sir.

Q. As you testified. What instruction have you given the Curtis boys, if any?

A. No particular instruction, except to try to get each boy to sell as many publications as he can.

Q. And have you been paid for your—for that service, anything by the Curtis Company for handling these boys?

A. Only——

Q. If so, how have you been paid, and what?

A. Only in the form of increased profit through sales.

Q. Does the American News Company operate in your city?

A. Yes, sir.

Q. Do you know how many of these retailers, how many retailers there are that they serve?

A. They serve——

Q. If you know, now. Do you know that?

A. Yes. They serve all but three.

Q. All but three. Are those the same three that you do not serve?

A. No, sir.

Q. What efforts do you make to see that those magazines are properly distributed, if any?

MR. WELCH: What do you mean by "those magazines," Mr. Daly?

MR. DALY: The Curtis magazines.

MR. WELCH: You mean all of the magazines that he handles?

MR. DALY: All of the magazines he handles, yes.

A. I deliver them myself and I know they are properly delivered.

Q. You take them to the dealers?

A. Yes, sir.

Q. What equipment have you for distributing those papers?

A. Practically none except a cart.

Q. You have a car?

MR. WELCH: A car?

THE WITNESS: No, no car, a cart.

By MR. DALY:

Q. Oh, a cart, I misunderstood you. That is all.

CROSS-EXAMINATION.

By MR. WELCH:

Q. Mr. Shively, you began business, you said, on January 1, 1916?

A. Yes, sir.

Q. Who did the wholesale newspaper and magazine business in Lafayette before that?

A. Mr. T. H. Pletcher.

Q. What became of him?

A. I really don't know. I think he is in Elkhart.

Q. Gone out of business?

A. In Lafayette, yes.

Q. In Lafayette?

A. Yes.

Q. Did he handle the Curtis publications?

A. No, sir.

Q. Who handled the Curtis publications in Lafayette, Indiana, before you had them?

A. His last name was Schaible. I don't know his initials. S-c-h-a-i-b-l-e.

Q. S-c-h-a-i-b-l-e?

A. Yes, sir.

Q. When you started in business, what magazines did you handle?

A. "Cosmopolitan," "Hearst's," "Harper's Bazaar," "Motor," "Motor Boating," "Collier's" and "Breezy Stories."

Q. Did you handle all those before you took on the Curtis agency?

A. Yes, sir.

Q. Did you buy those magazines direct from the publisher or from the American News Company?

A. Direct from the publisher.

Q. All of those?

A. Yes, sir.

Q. Do you know an employee of the Curtis Publishing Company named H. H. Nutter?

A. Yes, sir.

Q. Did you ever make any statement to him to the effect that when you took on Curtis you were not dealing in any other magazines——

MR. DALY: Now——

By MR. WELCH:

Q. (Continuing)—purchased wholesale from the publisher?

MR. DALY: I think the form of that question is objectionable. I think he ought to fix the time and place and call the attention of the witness to something definite about such a conversation.

By MR. WELCH:

Q. Did you, on August 2, 1917, in response to a request or a question by Mr. H. H. Nutter of the Curtis Publishing Company, state to him that when you first began to wholesale for the Curtis Publishing Company you were not then wholesaling any other magazine bought direct from the publisher?

A. No, sir.

Q. You never made any such statement?

A. I never did.

Q. Now, when you first took up the handling of the Curtis publications in the spring of 1916, you say the Curtis Publishing Company turned over to you six or eight boys?

A. In that neighborhood. I would not be sure as to the exact number, but it was not more than six or eight, I am positive.

Q. What other boys did you have then?

A. I had perhaps fifty more boys who sold morning and evening papers and Sunday papers.

Q. Those were newsboys?

A. Yes, sir.

Q. At the present time you have twenty boys who sell exclusively the Curtis publications?

A. Yes, sir.

Q. How many boys do you report to the Curtis Publishing Company weekly?

A. In the neighborhood of twenty-five. I would not be exactly sure of that, because my clerk makes out the statements.

Q. You make that report every week, do you not?

A. Yes, sir.

Q. And what does that report contain?

A. The boy's name and address, the number of publications he takes out, and the number he returns, and his net sale.

Q. Are those twenty or twenty-five boys that exclusively handle the Curtis publications mostly school boys?

A. Yes, sir.

Q. Have you ever communicated with any of their parents or their teachers with respect to any other matter?

A. Never to their teachers.

Q. But you have to their parents?

MR. DALY: Well, now, I object to that. He did not say so.

MR. WELCH: What do you object to that for?

MR. DALY: Because you are putting words in the witness's mouth.

MR. WELCH: Well, this is cross-examination. I can ask any form of question, Mr. Daly.

MR. DALY: You did not ask a question. You testified.

MR. WELCH: Well, I can ask him. If it is not correct you can strike it out.

MR. DALY: You can ask him, yes, sir, but you ought not to answer.

A. I have talked to the parents, yes, sir.

Q. How do these three dealers that you speak of get their magazines, publications, that you don't deal with?

A. They get all their publications from the American News Company.

Q. Well, are the three that you don't serve the three dealers—retail dealers that you don't serve—the same retail dealers that the American News Company don't serve?

A. No, sir.

Q. Well, then, who serve the dealers that the American News Company does not serve?

A. They sell my publications exclusively.

Q. They sell what?

A. They sell the publications that I handle, only.

Q. Well, where do they get them?

A. From me.

Q. They are the three men that the News Company does not serve?

A. Yes, sir.

Q. Now, you say that the former agent——

MR. WELCH: What did I say there? Read it.

(The record was read.)

MR. WELCH: No, strike that out.

By MR. WELCH:

Q. When you took over the agency for the Curtis publications, you say the Curtis Publishing Company turned over to you six or eight boys, and that none of those boys are now selling Curtis publications or acting for you, but that there are twenty who are acting exclusively in selling the Curtis publications; is that correct?

A. Yes, sir.

Q. Now, those twenty—— Weren't those twenty or twenty-five boys that are exclusively selling Curtis publications, and that you report, boys that were obtained by the Curtis representative, went to the school, and mailed the cards, and called on the boys that you referred to?

A. I could not say what number of them had been secured by Mr. Nutter and what had been secured by myself.

Q. Well, in respect to boys secured by yourself, they were secured with the assistance of the Curtis Publishing Company in a great many ways, were they not?

A. They were largely through getting one boy to bring down another boy.

Q. Weren't they obtained through advertisements by—advertising by the Curtis Publishing Company, and by the work of their representatives in large part?

A. I don't know. I don't know how many were and how many were not.

Q. Well, don't you know how many boys out of twenty or twenty-five that you got, and how many were obtained by the Curtis representatives?

A. No, sir, I don't, because the personnel of the boy force is constantly changing. You can hardly place it in your mind before it changes again.

Q. Well, haven't you had twenty or twenty-five boys continuously in the last few years?

A. Yes, sir.

Q. Do you mean to say it is impossible for you to state whether the majority of those were obtained by the Curtis representative or by you?

A. I could not say and be sure that I was right.

Q. What other business do you conduct in connection with the wholesale newspaper and magazine business?

A. None.

MR. WELCH: That is all.

MR. DALY: Wait, Mr. Shively.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. You state that these boys were constantly changing. What do you mean by that?

A. Oh, one boy sells his route and the next little fellow has it for a month and he sells it again or gives it away in that neighborhood. Some boys quit and other boys start.

Q. Is that a rapid change or not, do they change rapidly or frequently, rather?

A. I could not answer that with any degree of accuracy. Some do and some do not. Some of them will stick to you for—the average life of a boy is about a year and a half or two years.

Q. Now, you had these six boys. How long did they stay with you?

A. I could not say, sir.

Q. How long have you been in business?

A. About a year and a half with the Curtis publications. But they are all gone now. They have all stopped since I took the Curtis publications.

Q. What did you do at the homes? Why did you go to the homes of some of these boys that you have spoken of?

A. I did not make the statement that I did go to homes. I said that I had talked with the parents.

Q. Oh, yes. I beg your pardon. What did you talk to the parents relative to those boys?

A. The parents, as a rule, are very much interested in their boys' progress. I have a number of mothers who come down with their boys and obtain their publications. Some of the mothers bring the money in for the boys, with their publications.

MR. WELCH: You are speaking of Curtis publications?

THE WITNESS: Yes, sir.

By MR. DALY:

Q. And you talk with them about that, do you?

A. Yes, sir.

Q. They would call on you, or you go and see them?

A. In the majority of cases they have come down to see me.

MR. DALY: Yes. That is all.

MR. WELCH: That is all, Mr. Shively.

MR. DALY: Oh, just a minute. That is not all.

By MR. DALY:

Q. I am not clear what you said about the average life of the boy being a year and a half. What did you mean by that?

A. Well, I mean by that, that if you employ twenty boys, either in selling any publications, that a boy will —that those twenty boys, if you take the total—if you average the length of time they carry or sell, they will average a year and a half. Either at the end of that time they will be too old and will quit of their own accord or else they become no good and it is necessary to get rid of them.

MR. DALY: That is all.

MR. WELCH: That is all, Mr. Shively.

(Witness excused.)

MR. DALY: Mr. Peers.

---

WILLIAM H. PEERS, called as a witness on behalf of the Commission, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Give your full name and address, Mr. Peers.

A. William H. Peers, P-e-e-r-s; Mishawaka, Indiana.

Q. How large a place is Mishawaka?

A. I believe the last census gives thirteen thousand five hundred.

Q. What is your business?

A. News dealer.

Q. What do you deal in?

A. Books—or novels, stationery, papers, magazines, cigars, tobacco, candy; have a soda fountain.

Q. What other dealers are there of this character in your city?

A. There are no wholesalers outside of myself and my brother, partners, Peers Brothers.

Q. Cover the whole city, do you?

A. Yes, sir.

Q. How do you get your magazines out—those magazines that you handle, out to the people in your community?

A. During the summer I was driving a machine, but when winter come on I disposed of the machinery and have been using a cart.

Q. To whom do you deliver them by machine?

A. To the wholesale dealers.

Q. Are there other wholesale dealers in Mishawaka?

A. I mean—pardon me—the retail dealers, or my sub-dealers at the various stores.

Q. Do you cover all of the dealers in your city?

A. Yes, sir.

Q. How long have you handled the Curtis publications?

A. I believe the first contract we signed was in January, 1914. We have had two contracts.

Q. Did the first contract have the prohibitive clause in it?

A. Yes, sir.

Q. That we are speaking about?

A. I have it with me.

Q. Did you say that you handled the "Pictorial Review"?

A. I did.

Q. How do you handle that under your contract?

A. I did handle that. My brother and I deliberately went and put in the order without consulting the Curtis Company at all, and then they sent Mr. Nutter in to adjust the matter.

Q. What did you do about it?

A. Transferred it to Mr. Eston Ball.

Q. Who is he?

A. He is a nephew of mine.

MR. WELCH: I didn't understand that.

THE WITNESS: Eston Ball.

MR. WELCH: Transferred it what?

THE WITNESS: Transferred the "Pictorial Review" agency.

By MR. DALY:

Q. Why did you do that?

A. Because they instructed us it was entirely against the clause.

Q. Who instructed you?

A. Mr. Nutter, and also by communications from the Curtis.

Q. Mr. Nutter, the Curtis representative?

A. Yes, sir; and also by communication with the Curtis Company.

Q. Did you correspond with the Curtis Company?

A. We did.

Q. And have you that correspondence?

A. I have their reply with me that I got back from those papers. We wrote them originally and then we telegraphed—wrote them, and I believe telegraphed them as to it, and I believe this is the reply we got back (producing papers).

MR. DALY: Have you those letters (addressing opposing counsel)?

MR. SPIESS: I have them right here (producing papers).

THE WITNESS: We wrote long ago. I haven't all of the letters with me.

MR. DALY: This seems to be a second letter (indicating).

MR. SPIESS: That is all I had of the correspondence.

By MR. DALY:

Q. Will you look at this letter, dated 3-7-17? (Handing same to the witness.)

A. Yes, sir; that letter was written by my brother, with my full knowledge and consent.

Q. Is he a member of your firm or not?

A. He is. He is the—him and I are equal partners. That is the second one (indicating).

Q. You had already written to them about it before, had you?

A. We had already written them in regard to two publications.

MR. DALY: We offer this letter.

EXAMINER MOORE: The letter is admitted without objection.

(The letter was received and marked "Commission's Exhibit No. 64," the same being in words and figures as follows, to wit:)

COMMISSION'S EXHIBIT No. 64.

"Mishawaka, Ind.
3-7-17

Curtis Pub Co.
Phil. Pa.

In response to your letter of 3-3-17. I am sorry to hear that you disapprove of the Pictorial review proposition, because I understand there are other magazines to follow the same course and it opens a road *to which some one could get a hold on the town* and open up some very disasterous competition. Were in if we controled it I would know just what was going on and as they *do not ask for a boy sale* would be sure there would not be any.

I would not be gaining any thing if I allowed one publication to fall in favor of another. What I want is *more business.* I believe our record with

you people proves that. Now lets talk plain. Heres what I do guarantee that your publication will not fall down.

1st. To allow you to raise our quto on Posts from 200 to 300 copies a week.

2nd. To raise the *Country Gent* quoto from 20 to 100.

3rd. To raise the L. H. J. quote from 120 to 200, or practitally assureing you that there will be no ~~net~~ fall off in the order.

4th. No to put out with boys and magazine or periodical with boys.

While I would like your approval, of this proposition but whether or not, I will sign no contract without your approveal *until further notice.*

But if there are other proposition offered on this same order and it is a case of the Curtis Pub. Co. or the other fellows, I will be governed by my motto of

'Money talks,'

who can talk the louderest.

Respectfully
PEERS BROS.
Per
T. L. PEERS."

(The above all in ink.)

(The following rubber stamps appear in "Commission's Exhibit No. 64":)

| | | |
|---|---|---|
| "RECEIVED<br>MAR 9 1917<br>F. M. B." | "ANSWERED<br>MAR 10 1917<br>M. E. D." | "DAILY MAIL<br>MAR 9 1917<br>SCATTER" |
| "ANSWERED<br>MAR 10 1917<br>M. E. D." | "MAR 9 1917<br>DAILY MAIL M" | "DAILY MAIL<br>MAR 9-1917<br>SCATTER." |
| "MAR 9 1917<br>DAILY MAIL M" | "DAILY MAIL<br>MAR 9-1917<br>SCATTER" | "MAR 9 1917<br>DAILY MAIL M" |

By MR. DALY:

Q. Will you look at this letter from the Curtis Company, dated March 3, 1917?

A. That is one letter we received from the Curtis Publishing Company.

Q. With reference to your application to handle other publications?

A. To handle other publications.

MR. DALY: You gentlemen have seen that? (Addressing opposing counsel and handing the letter in question to them.)

MR. WELCH: I just want to see the general form of it, yes.

MR. DALY: We offer this in evidence.

EXAMINER MOORE: The letter is admitted without objection.

(The letter was received and marked "Commission's Exhibit No. 65," the same being in words and figures as follows, to wit:)

COMMISSION'S EXHIBIT No. 65.

"THE CURTIS PUBLISHING COMPANY
INDEPENDENCE SQUARE
PHILADELPHIA
THE LADIES' HOME JOURNAL
THE SATURDAY EVENING POST
THE COUNTRY GENTLEMAN.
Sales Division
CIRCULATION DEPARTMENT
M. E. DOUGLAS, MANAGER.

March 3, 1917.

Messrs. Peers Brothers
108 East 2nd Street
Mishawaka, Indiana.

Gentlemen:

In reply to your telegram dated March 2:

Our mutual interests, yours and ours in com-

mon, will be best served by your not making any arrangement to wholesale the other periodical referred to.

One fundamental fact stands out prominently: There is a limit to the number of periodicals seeking circulation among readers of the same class, which a District Agent can handle without taking on the limitations of a branch news company. We have District Agents because we need representatives free from such limitations. You are our valued representatives because you have heretofore been free from such limitations.

That you may get our exact shade of meaning, let me quote from a letter recently mailed to a Curtis District Agent in another state, of whose loyalty to us we were not wholly confident as we are of your loyalty. In that letter to the other District Agent we said:

> 'If you were to undertake it (wholesaling the other periodical mentioned), directly or indirectly, we should wish to cancel your arrangements with us.'

There is nothing temporary or uncertain about our policy of continued direct supplies to District Agents including you in accordance with our contracts, and we believe our mutual interests, yours and ours alike, will be best served by the maintenance of methods and policies above mentioned.

At your convenience in the course of a few days, we shall be very glad to have you tell us what is your preference with respect to the continuance of the very pleasant relations which have so long existed between us.

We are much interested in any increased local effort for larger sales of THE COUNTRY GENTLEMAN and are willing and anxious to pay hand-

some liberal bonuses for increases in net sales of THE COUNTRY GENTLEMAN during months to follow.

With kind personal regards,
Very truly yours,
THE CURTIS PUBLISHING COMPANY,
J. F. DONNELLY,
*District Manager.*

Dictated by
MED BHL M. E. DOUGLAS."

By MR. DALY:

Q. Will you look at this letter, another letter dated March 3, 1917, from the Curtis Company?

A. That is another copy of a letter we received from the Curtis publications—the Curtis Publishing Company.

Q. With reference to your handling——

A. To handling "Literary Digest"; yes, sir, and other publications.

MR. DALY: We offer this.

EXAMINER MOORE: The letter is admitted without objection.

(The letter was received and marked "Commission's Exhibit No. 66," the same being in words and figures as follows, to wit:)

COMMISSION'S EXHIBIT No. 66.

"March 3, 1917.

Messrs. Peers Brothers
108 East 2nd Street
Mishawaka, Indiana

Gentlemen:

You ask for our approval of your undertaking to wholesale The Literary Digest.

We have no present objections to your wholesaling this publication to newsdealers only; that

is, provided you refrain from supplying copies to boys.

And, of course, if you were to furnish to these publishers or their representatives, any list of names of any retailers whom you now supply with our publications, the above approval would have to be withdrawn.

Moreover, we particularly advise that you do not make with these publishers any arrangement from which you could not withdraw on thirty days' notice; for if your arrangement with them should weaken your service with our publications or result in interference with our plans or policies, we should withdraw the conditional approval above given you.

While the idea of your divorcing your efforts to the above extent from our publications arouses no enthusiasm, nevertheless it looks as if you can, if you will, handle it in such a way as not to result to our disadvantage.

As before stated, our disposition is to concede to your individual interests everything we can without sacrificing mutual interests.

Very truly yours,

THE CURTIS PUBLISHING COMPANY.

*District Manager.*

Dictated by
MEDBHL."

(The above is a carbon copy.)

By MR. DALY:

Q. Will you look at that telegram (handing same to the witness)?

A. Yes, sir, that is a telegram my brother sent, with my knowledge and consent.

MR. DALY: We offer this telegram.

EXAMINER MOORE: The telegram is admitted.

(The telegram was received and marked "Commission's Exhibit No. 67," the same being in words and figures as follows, to wit):

COMMISSION'S EXHIBIT No. 67.

(On telegram blank Postal Telegraph-Cable Company.)

(In pencil) "#28

28P G 15 get ans 1105A
Mishawaka Ind Mar 2,17.
Curtis Pub Co., Phila.
Wire us collect your conditions for us to take pictorial review and literary digest agencies.

Peers Bros.
(In ink) 108 E 2nd St."

(The following rubber stamps appear on Commission's Exhibit No. 67):

"Answer required." "Answered
Mar 2 1917
M. E. D."

"Received
Telegram Desk
Sales Division
(Time stamp indicating 11.30.)
Charges Pd
2 1917."

By MR. DALY:

Q. Now, you have stated that you transferred the "Pictorial Review" agency to a gentleman——

A. Mr. Eston Ball.

Q. Whose name I don't remember. What is his name?

A. Eston Ball.

Q. Who is he?

A. A nephew of mine

Q. Now, what equipment has he for handling this "Pictorial Review"?

A. None whatsoever.

Q. Well, how does he handle it?

A. He does not handle it?

Q. Well, who handles it in reality?

A. We do.

MR. WELCH: Who?

THE WITNESS: We do, Peers Brothers.

By MR. DALY:

Q. And it is handled through your equipment, is it?

A. Yes, sir.

Q. Notwithstanding the contract?

A. Yes, sir.

Q. How many boys have you in your organization, approximately?

A. Oh, all told, on everything there is in the neighborhood of sixty. I have got too blamed many kids around my town.

Q. About sixty. How many exclusively so-called "Curtis boys" have you?

A. At the present time, I should judge about ten boys are working exclusively on the Curtis publications. The rest of them are working with a little bit of everything, anything they can make the money out of.

Q. Do the Curtis boys, your Curtis boys, handle any other publications?

A. They will, if they get an order for it.

Q. Well, do they get orders for it?

A. Yes, sir, they will come and get orders for everything under the shining sun.

Q. And you give them to them?

A. I will give them—allow them to make some-

thing on any magazine that they might have that they might get calls for.

Q. Now, when was it that you made your contract, your first contract, with the Curtis Company?

A. I believe January 28, 1914, the original contract (producing a paper).

Q. Now, how long had you been in business prior to that time, Mr. Peers?

A. I signed the—first signed the Chicago paper agencies the first day of February—the first day of February, 1913, I believe. I was in some time before I took the agencies—1913, the first of February.

Q. Have you said in your testimony what magazines you handle?

A. Not yet.

Q. Will you tell them?

A. Yes, sir, as near as—I am handling at present the Curtis Publishing Company's publications, the "Pictorial Review," the "Literary Digest," "Hearst's," "Good Housekeeping," "Harper's Bazaar," "Motor," "Motor Boating," "Pearson's."

Q. Did you handle any magazines at the time that you took on the Curtis publications?

A. Yes, sir.

Q. What ones were you handling then?

A. The Hearst publications.

Q. Any others?

A. That was all at that present time.

Q. How many boys did they turn over, the Curtis Company, turn over to you when you took on this contract with them, or made this contract?

A. Approximately eight or ten.

Q. And have they—what have they done about furnishing you boys since that time, Mr. Peers?

A. It has been unnecessary for anybody ever to help me get boys, because we have got such an overabundance.

MR. WELCH: Now, I move to strike out that whole answer as irresponsive and irrelevant.

MR. DALY: Strike that out.

By MR. DALY:

Q. Just answer the question, Mr. Peers.

A. They have furnished some cards by which boys might get copies free if they started to sell Curtis publications.

MR. DALY: What was my question, Mr. Stenographer?

(The question was read.)

MR. DALY: And what was his answer?

(The record was further read.)

A. And I wish to say also, they have also volunteered at any time I needed any help or assistance to come out and help me get boys, if I needed it. They have always been willing.

Q. Does the American News Company do business in your town?

A. Yes, sir.

Q. Are you familiar with how it operates?

A. Yes, sir.

Q. And what it does?

A. Yes, sir.

Q. Do you know the number of retailers that there are in your city?

A. Yes, sir.

Q. How many are there?

A. Six.

Q. What do they—how do they distribute their magazines?

A. The American News distributes them by express to three men only. I furnish the rest.

Q. Well, do you mean that you simply serve three out of the six?

A. I serve all of them in part and three of them in all, furnishing the Western News Company's stuff—or, rather, the American News Company's stuff, that I furnish to three of the dealers, that they don't handle with the company—they deal with me.

Q. Have you rendered any assistance to boys in—to the Curtis boys?

A. Yes, sir.

Q. In the handling of those magazines?

A. Yes, sir.

Q. What have you done towards that?

A. I helped and I coached one boy. I instruct all boys, no matter what publications they work for. And I coached—and my brother and I worked very hard with one boy in particular to get him to be a winner.

Q. Is that the only time that you worked with the boy particularly?

A. No. We had another boy that went up fairly high, but he has lost out since then. And we will coach every boy in any publication, no matter what they are, instruct them how to get out and do the business, no matter whether they are selling papers, or anything else.

Q. What have you done towards coaching the Curtis boys?

A. Nothing more than in particular than we would coach them in any publication or to sell anything, except as I state, two boys that we did coach very hard.

Q. Now, you say one of them lost out, what do you mean by that?

A. Oh, he has dropped out. Well, in fact, they both won prizes and they have both quit selling since then.

MR. WELCH: They have both what?

THE WITNESS: They both quit handling the publications after getting a good, big prize from the Curtis Company.

By Mr. Daly:

Q. Now, have you been paid by the Curtis Company anything for your services in coaching these boys?

A. In an indirect way, yes.

Q. How?

A. Because Ray Walker won a big prize.

Q. Who is Ray Walker?

A. One of the Curtis boys that was working for us and always did sell nothing but Curtis publications. He won a big prize, and we coached him very hard, because there was a big dealer's prize that we hoped to get in on, and we did get $125 out of the dealer's prize.

Q. Yes. And that is the only instance?

A. At various times when boys reach a certain limit, why, there is money paid to the dealers. On two or three occasions we have got small checks—one just recently for $5 for—on account of Donald Denton gaining a certain limit or having membership in the P. J. G. Club.

Q. One of their boys?

A. Yes, sir.

Mr. Daly: That is all.

Cross-Examination.

By Mr. Welch:

Q. How long have you been in the wholesale newspaper and magazine business?

A. Since February 1, 1913.

Q. Who handled it before you?

A. Mr. Richard Doutel.

Q. Is he still in business?

A. He has since died, being killed in an accident.

Q. Now, you said that you handled the "Pictorial Review" without asking the Curtis Publishing Company, or referring the matter to the Curtis Publishing Company in any way, didn't you?

A. Yes, sir.

Q. You knew what was in the contract that you had with them, didn't you?

A. We did.

Q. And you didn't keep your contract with them?

A. Absolutely no.

Q. Then when Nutter advised you against taking "Pictorial Review" you said you would not handle it, didn't you?

A. Yes, sir, I did—we did in a way. We told him when he first came that we was already handling it, having wired the company our resignation.

Q. Didn't you say after he spoke to you that you would not handle it any more?

A. We did, after he outlined a plan.

Q. You said it, however?

A. Yes, sir, and we wrote it.

Q. And you did handle it after that, didn't you?

A. We haven't handled any contract.

Q. You have handled "Pictorial Reviews" since you told Nutter you would not handle it, didn't you?

A. Yes, sir.

Q. Then you didn't keep your contract?

A. Absolutely no.

Q. And you did not keep your word to Nutter?

A. We agreed not to have the agency, and we haven't got the agency.

Q. Do you consider you kept your word to Nutter?

A. In the fact that we would turn over the agency, yes. That is all I agreed to do.

Q. Don't you know that turning over the agency to Ball was a mere subterfuge on your part?

A. Yes, sir; and so understood by Mr. Nutter, in fact, as he proposed it.

Q. Then you indulged in a subterfuge on this matter?

A. We did, with the full knowledge and consent of Mr. Nutter.

Q. And you mean to say that Mr. Nutter gave his consent that you should indulge in a subterfuge here?

A. He propsed it, yes, sir.

Q. To turn this magazine over to Ball?

A. Yes. Mr. Nutter came in reply to my brother's telegram stating that we resigned entirely all the Curtis agency, as we had sent a telegram to the Curtis agency stating that we withdrew entirely.

Q. When you turned it over to Ball, who was your nephew, and whom you testified afterwards was practically the same as handling it yourself, had you written this letter of March 7, 1917, to the Curtis Publishing Company?

A. Yes, sir.

Q. Do you remember saying in that letter:

"While I would like your approval of this proposition, but whether or not, I will sign no contract without your approval until further notice"?

A. Yes, sir.

Q. Did you write that?

A. Yes, sir. We had not signed any contract with "Pictorial Review" at that time yet.

Q. Do you know a representative of the Curtis Publishing Company called Reynolds?

A. Yes, sir.

Q. Did you ever talk with him about this handling the "Pictorial Review"?

A. I believe we have.

Q. After you talked to Mr. Nutter?

A. Not since we talked to Mr. Nutter. Mr. Nutter and I fixed it up, and my brother together, the three of us.

Q. The three of you?

A. Fixed up, the three of us together fixed up the transfer.

Q. Now, I want you to state just exactly what Nutter said to you about your indulging in a subterfuge to have the "Pictorial Review" handled by Ball, your nephew?

A. When Mr. Nutter came in it was the first time I ever met the gentleman. We had telegraphed the Curtis Company that we resigned the agency of the Curtis publications in full and complete, expecting at the time to lose bond money and everything.

Q. I asked you what Mr. Nutter said. I didn't ask you what you did.

A. Mr. Nutter came in and he says, "Can we fix this thing up same as they do at some other places?" We wanted to know what that was. He says, "Have you not got a boy that you can trust?" I says, "Yes, my nephew." He says, "Transfer it over to him and then you can handle—and then you can go ahead and sell the publications while he holds the contracts." We did so. We wrote to the Pictorial Review Company to transfer it to Mr. Eston Ball. Then we wrote a letter telling afterwards that we did not have the contract for the "Pictorial Review," having turned it to Ball.

Q. And that was after writing to the Curtis Publishing Company?

A. That was the culmination——

Q. No, wait one moment. That was after writing to the Curtis Publishing Company in Philadelphia that you would not handle "Pictorial Review" without their approval?

A. That was the culmination of the whole business, yes.

Q. Answer that question yes or no.

A. Yes, sir.

Q. Now, you said there were ten boys, Curtis boys, that handled exclusively Curtis publications?

A. Approximately, yes.

Q. Then you said you let them handle anything?

A. If they asked for it, yes.

Q. Yes.

A. But those ten haven't asked for anything else yet.

Q. What do you mean by these prizes that the—that Ray Walker and this other boy won?

A. The Curtis Publishing——

Q. What were those prizes; just explain it.

A. The Curtis Publishing Company at one time offered a thousand dollar prize for the boy that had put on the greatest, or sell the most—or make the most gain, and we selected Ray Walker for being the most likely boy in Mishawaka, and boosted him for a winner. He come out in eighth place, got $250.

Q. He received that from the Curtis Publishing Company?

A. He received that from the Curtis Publishing Company.

Q. How much did the other boy that won the prize get?

A. He received a $100 prize on a later prize contest.

Q. Wasn't there a third boy that got a prize?

A. Not to my knowledge.

Q. Out of those, and as a result of those prizes, you got $125 yourself?

A. As a result of the first, Ray Walker, contest, we got $125, yes, sir, out of the dealers' money. There was a prize for dealers as well, six hundred and seventy-five—we received $125 out of that.

Q. And those boys that won those prizes and the other boys who were handling Curtis publications, are members of the P. J. G. club, as you have described it?

A. Yes.

Q. What is that?

A. It is a system that the Curtis Company has.

When a new boy starts in, why, then, he is a Curtis boy. As he goes along, why, there is different grades that he must make, as he gets to selling more and his school education goes higher. And as his sales get bigger—but, for to make the different grades, he must increase his sales.

Q. Do you know what the members are in that league, what they are called, the grades of membership?

A. I cannot give the grades exactly in rotation. They have—there is the first, then there is the P. J. G. membership. The first is just a Curtis boy. Then they are elected, as they claim, to P. J. G. membership. Then as they go higher they become an expert salesman, and finally a master salesman, I believe is the highest. We had one master salesman.

Q. You receive payments for these various promotions that took place in these grades, do you not?

A. Yes, sir.

Q. You yourself?

A. Yes, sir.

MR. WELCH: That is all.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. How long a period did this prize contest cover, Mr. Peers?

A. I should say from memory it must have covered any place from six to nine months, or something like that. It was a very long period.

Q. Can you recall what the circulation of the Curtis publications was at the beginning of that contest?

A. I should judge we was getting about two hundred and fifty copies of "The Saturday Evening Post" and possibly, maybe it was three hundred—I would not say positive, at the culmination of it on Friday last week.

Q. Now, of the "Home Journal," how many were there?

A. Approximately——

Q. Not the "Home Journal."

A. "Ladies' Home Journal."

Q. Yes, "The Ladies' Home Journal."

A. I should say about a hundred and fifty to two hundred at the beginning.

Q. Now, at the conclusion of the contest, what was the circulation?

A. And last week we sold fifteen hundred "Posts," fourteen hundred "Country Gentleman," and I believe three hundred "Ladies' Home Journals" was the last month, or three hundred, or three hundred and fifty.

Q. Do you recall how many "Country Gentlemen" you sold at the beginning of the contest, approximately?

A. Oh, our bonus—our quota number was twenty, and I think we drew about, possibly seventy-five.

Q. Now, do you know whether or not this contest covered more cities than your city?

A. Yes, I believe it covered every place where the Curtis Publishing Company sells publications.

Q. Has the circulation continued——

A. No, sir.

Q. ——to stand about like it was then?

A. No, sir, not like it was at the end of the contest.

Q. I am speaking about the end of the contest.

A. No, sir, it did not.

Q. What is the circulation now, Mr. Peers?

A. My last order was three hundred and fifty "Saturday Evening Posts"; ninety "Country Gentlemen" and two hundred "Ladies' Home Journals."

Q. At what time did this contest finish; can you fix about the time?

A. That must have been a year and a half ago, or possibly two years. I forget for certain. It is rather

indistinct. I should judge about a year and a half ago.

Q. Can you give the number of Curtis magazines that you handled from month to month during that period—from that period until now, or not?

A. No, I could not. That there gigantic number was only one week—that fifteen hundred or twenty-nine hundred copies was one week only.

Q. How was the next week, can you remember that?

A. The next week dropped back to normal. We put over an extraordinary scoop on the last day for to help Walker win.

Q. And then it dropped to about what it is now, is that what you mean?

A. About. Well, the next week it dropped off considerable, and then it slipped down gradually so that it left us with a net gain for to show for the whole contest.

MR. DALY: That is all.

MR. WELCH: That is all.

(Witness excused.)

---

J. L. PRICE was called as a witness on behalf of the Commission, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Will you give your name and address?

A. J. L. Price, Waukegan, Illinois.

Q. How large a place is your city, what population?

A. The census gives it sixteen thousand.

Q. And what is your occupation?

A. News dealer.

Q. What do you deal in, Mr. Price?

A. Newspapers and magazines.

Q. Will you name the magazines?

A. All of Hearst's publications, Curtis publications, Warner publications, "Motion Picture" and "Motion Picture Classic," "Literary Digest," "Etude," Curtis publications, and maybe a few more.

Q. What newspapers do you deal in?

A. Chicago newspapers and Waukegan Daily Sun.

Q. What other wholesale dealers are there in your city?

A. Not any.

Q. Do you cover the whole city?

A. Yes, sir.

Q. Have you a contract with the Curtis Publishing Company for the handling of their publications?

A. Yes, sir.

Q. Can you give the Examiner about the date of it?

A. The first contract was in November, 1912.

Q. And when was the second one?

A. In '14, the last one was January 7, 1918.

Q. This year?

A. Yes, sir.

Q. The first contract continued until now, is that correct?

A. I think there was one in between, in '14.

Q. In '14 there was another one? Then you had three contracts, is that correct?

A. Yes, sir; the first one was for "Ladies' Home Journal" and "Saturday Evening Post" separately, and the second one was for the "Post," "Ladies' Home Journal" and "Country Gentleman" together on one contract.

Q. Did that second contract have the refraining clause in it?

MR. WELCH: What?

THE WITNESS: I think it did.

MR. DALY: The clause requiring him to refrain from handling other publications besides the Curtis Publishing Company's publications.

By MR. DALY:

Q. You answered that, did you?

A. Yes, sir.

Q. Were you ever asked to handle the "Pictorial Review"?

A. Yes, sir.

Q. Did you take it on?

A. Yes, sir.

Q. Still have it?

A. Yes, sir.

Q. Were any objections made by the Curtis Company to your handling that paper?

A. Not as yet.

Q. In February, 1917, do you remember whether or not you received a circular letter?

A. From the Curtis Company?

Q. With reference to your contract.

A. I did; yes, sir.

Q. You received that letter, did you?

A. I did.

Q. And when did you take on the "Pictorial Review"?

A. I can't say exactly, nine or ten months ago, probably.

Q. What organization have you for distributing magazines and papers?

A. To my sub-dealers with an auto truck and two boys.

Q. Sub-dealers are the retailers, are they, in the town?

A. Yes, sir.

Q. How many of them are there?

A. About fifteen or twenty.

Q. How many do you serve?

A. All of them.

Q. You say you have boys, how many boys have you?

A. Handling everything, about eighty-five.

Q. How many of them are Curtis boys?

A. Five or six.

Q. When you took on the publications what magazines were you handling?

A. Not any.

Q. Simply handling newspapers, is that correct?

A. Yes, sir.

Q. How many boys did they turn over to you when they made this contract with you?

A. Well, the boys they turned over were my boys, boys that were handling newspapers. Their representative worked among my boys and got them to handle their publications.

Q. Is that the situation now, or not?

A. The same thing, yes.

Q. Now, what have they done toward furnishing you with boys since that time?

A. Well, they have carried on a number of campaigns through the schools through the free distribution of cards. They would mail cards out. I would give them three copies of the first issue. After that they would pay for them if they would wish to continue. They have never made any free distribution.

MR. WELCH: I move to strike that last out.

MR. DALY: Yes.

By MR. DALY:

Q. How many of these campaigns did they make, Mr. Price?

A. I couldn't recall.

Q. Did you visit the schools personally?

A. No, sir.

Q. What instructions did you give these boys, personally?

A. Oh——

Q. I mean the Curtis boys now.

A. Well, we explained the proposition to them as to method and mood. The Curtis people have their forms, the prices and different things of that sort, what they could earn.

Q. What instructions did you give to the other boys?

A. Only in the matter of salesmanship.

MR. WELCH: What is that last?

(Answer read by the reporter.)

By MR. DALY:

Q. Tell them how to sell, is that what you mean?

A. That is the idea.

Q. What did you actually say to these boys in the way of instructing them, Curtis boys now I am speaking about?

A. Why, the Curtis Company have a book of prizes. The one thing that really appeals to a new boy that has never sold any publications or magazines. They issue a great many different prizes that would appeal to a boy, and for selling a certain number of each and every publication they give the coupons. These coupons are redeemable in prizes. The number is stated in the book. Their object is to start them saving the coupons, and consequently if the prize is very large they will have to sell quite a lot in order to save up to get the required prize. Of course, it would take some instruction to tell them how to go about it and that is the only thing——

Q. You would dwell on that prize proposition, is that correct?

A. That is it, on the new boy. Of course, that was where he is also getting his regular commission on every newspaper copy that he sells.

Q. Now, do these Curtis boys handle any other publications?

A. Most of them do; yes, sir.

Q. Get them from you, do they?

A. Yes, sir; but it is only in the way of newspapers that they handle any magazines.

MR. WELCH: What is that?

(The last answer read by the reporter.)

By MR. DALY:

Q. Why don't they handle the magazines, Mr. Price?

A. Well, they—I have never figured that a boy who would get too much on his shoulders, he does not make a success of anything.

Q. But they do handle newspapers?

A. They do handle newspapers.

Q. Do you handle "Every Week"?

A. No, sir.

Q. Have you ever been asked to handle "Every Week"?

A. Yes, sir.

Q. Why didn't you take that on?

A. I didn't like the form of their contract.

Q. The Curtis people didn't object to your handling "Every Week"?

A. They have never mentioned it.

MR. DALY: That is all.

CROSS-EXAMINATION.

By MR. WELCH:

Q. How many of the Curtis boys, that is boys who handle exclusively the Curtis publications among magazines do you report to the Curtis Publishing Company each week?

A. Well, it is four or five, I guess. I don't report them that way.

Q. How do you report them?

A. Their name and address is on the report and the number of copies that are sold. It does not show whether they are Curtis boys or other publications.

Q. Well, the only boys, you make such a report of boys who are handling nothing but Curtis papers?

A. No, sir.

Q. What report do you make?

A. I make a report on every boy that sells a "Ladies' Home Journal," "Saturday Evening Post" or "Country Gentleman."

Q. You don't mean to say that you report every newsboy that might just sell one or two copies?

A. Not if he is not a regular seller, if he does not sell regularly each and every week he is not reported. If he becomes regular his name is put on the list.

Q. That is the Curtis list of boys, is it not?

A. Not necessarily the Curtis list, of course, a list of boys that sell Curtis publications.

Q. And sell no other magazines?

A. No other magazines, no they don't sell any other magazines.

Q. No other magazines?

A. No, sir.

Q. Those are the only boys that you report?

A. Yes, sir; but they sell newspapers.

Q. I understand, but you make no report of any other boys but those who sell Curtis publications, who have no other magazine?

A. Yes, sir.

Q. Well, how many are there?

A. I can't recall exactly. There may be fifteen of them on there.

Q. Fifteen?

A. I wouldn't say exactly. I don't keep track. I didn't count them up. I have a list of them. There might be fifteen of them.

Q. Well, you said you had eighty-five boys. Now, you certainly can say how many of these boys are Curtis boys and handle no other magazines but Curtis publications?

A. I could say if I saw my list, but I haven't it on the tip of my tongue, the number of boys.

Q. What is your best recollection?

A. I said about fifteen.

Q. About fifteen?

A. I should think there was.

Q. Then when you stated on your direct examination that there were only five or six Curtis boys that is an error?

A. Well, he said that handle nothing else but Curtis publications. They handle newspapers as I have——

Q. You mean to say there are five or six boys who handle nothing else but Curtis publications?

A. That is it exactly.

Q. And there are fifteen or twenty Curtis boys who handle no other magazines but Curtis publications, is that correct?

A. Yes, sir.

Q. Do you make out the sales reports to these boys that you send to the Curtis Publishing Company yourself?

A. I do, sir.

Q. Don't you know how many you report?

A. I didn't count them up.

Q. Did you make a report last week?

A. I did.

Q. Would you say there were more than twenty?

A. I won't say.

Q. At the time you first took over the agency for the Curtis publications you were not handling any other magazines?

A. No, sir.

Q. And had never before that handled any other magazines?

A. No, sir.

MR. WELCH: That is all.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. Now, you say you made a report last week to the company, did you?

A. Yes, sir; I make as a rule——

Q. How often do you make a report?

A. Once a week.

MR. DALY: I want to ask counsel on the other side for the report.

Q. Is it in writing?

A. Yes, they would hardly be able to have the report as yet.

MR. DALY: That is all.

---

J. W. BURNTON, called as a witness on behalf of the Commission, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Have you given your name and address?

A. Yes, sir.

Q. In what city do you live?

A. Fond du Lac, Wisconsin.

Q. How large a city is that?

A. Nineteen thousand.

Q. In what business are you engaged?

A. Books, stationery and the news business.

Q. How long have you been in that business?

A. Thirty years.

Q. Do you handle the Curtis publications now?

A. I retail them.

Q. You retail them?

A. Yes, sir.

Q. Are you a wholesaler?

A. Yes, sir.

Q. You distinguish, you say you retail them, the magazines?

A. Yes, I didn't sign the last contract that they wanted me, so I lost the agency.

Q. When did you lose the agency?

A. About two and a half or three years ago.

Q. That was the last contract that you had entered into?

A. Yes, sir.

Q. Prohibiting you from taking on other magazines?

A. Yes, sir.

Q. Without their consent?

A. Yes, with the exception that this had an addition of investing a certain amount at five per cent. interest.

Q. Well, that is in every contract?

A. Yes, sir.

Q. Now, you handle magazines——

A. Yes, sir.

Q. —for a long while, have you?

A. Yes, sir.

Q. What magazines did you handle before taking on the Curtis?

A. Why, nearly all the magazines in a retail way that we got through the news companies.

Q. Handle newspapers?

A. Yes, sir.

Q. Have you a boy organization?

A. Yes, sir.

Q. Did you have that organization when you took on the Curtis publications?

A. Yes, sir.

Q. How many boys did you have in your organization then?

A. About twenty.

Q. Approximately?

A. When I first had the Curtis business.

Q. Do you mean by that twenty Curtis boys or twenty boys altogether?

A. No, boys of my own, altogether.

Q. Now, how many boys did you have when you quit handling the Curtis publications?

A. About forty.

Q. Do you know, can you tell what efforts, what the Curtis Publishing Company did about furnishing you boys?

A. Nothing, never did anything for me.

Q. Then all of the boys that you handled were your own boys?

MR. WELCH: Now, don't lead him, please.

A. My own boys.

MR. DALY: Well, he is testifying.

By MR. DALY:

Q. And you wound up with forty boys?

A. Yes, sir.

Q. Are there any other wholesalers in the community?

A. No, sir.

Q. You cover that whole territory, do you?

A. Yes, sir.

Q. How many retailers?

A. Well, there is a Curtis agent.

Q. Yes. I am speaking of wholesalers.

A. No.

Q. How many retailers do you serve?

A. Six.

Q. How many did you serve at the time that you stopped dealing with them?

A. Six.

Q. Covered the whole territory, did you?

A. Yes, sir.

MR. DALY: I think that is all.

CROSS-EXAMINATION.

By MR. WELCH:

Q. Two and a half or three years ago you said you lost the Curtis agency?

A. Yes, sir.

Q. And that was the wholesaling of the Curtis publications, and the wholesaling of those publications was put in the hands of some other person?

A. Yes, sir.

Q. Has he since handled them?

A. Yes, sir.

Q. Doesn't he deal in the Curtis publications wholesale?

A. Why, yes.

Q. Yes?

A. I say, yes, sir, he does, he wholesales.

Q. He wholesales Curtis publications?

A. Yes, he supplies me with copies of the "Post" and the "Home Journal" and "The Country Gentleman."

Q. He supplies you?

A. Yes.

Q. And he supplies the six retailers in Fond du Lac?

A. I think he does.

Q. And he wholesales the Curtis publications?

A. Yes, sir.

Q. Why did you say there is no other wholesaler in your city?

A. I said except the Curtis agent.

Q. You didn't say that. You said there is no other wholesaler; now, you don't mean that?

A. I think I said except the Curtis agent.

Q. Well, don't you call him a wholesaler?

A. Wholesaler of the Curtis. He sells nothing else.

Q. Well, he could sell anything if it were given to him?

A. I don't think he could.

Q. He has the equipment?

A. Yes.

Q. Where did you obtain the Curtis publications, where do you obtain the Curtis publications that you handle at retail?

A. From the Curtis agent.

Q. From the Curtis agent?

A. Yes, sir.

MR. WELCH: Nothing more.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. What do you handle—I am not sure whether I went into that clearly or not. At the time you went into wholesale business you said you had magazines, what magazines?

A. I handle now Hearst's, "Pictorial Review," the "Literary Digest."

Q. I know, but then when you took them on?

A. I had the Hearst magazine.

Q. What particular magazines?

A. "Hearst's," "Cosmopolitan," "Good Housekeeping," "Puck."

MR. DALY: That is all.

RE-CROSS-EXAMINATION.

By MR. WELCH:

Q. I want to ask you one question: At the time that you took on the agency, took over the agency for the Curtis publications you were wholesaling newspapers, were you not?

A. Yes, sir.

Q. You were not wholesaling any other magazines, were you?

A. Yes, sir.

Q. At the time you took over the Curtis agency originally?

A. No, not when I took it over originally.

Q. When you first took over the sale as agent of the Curtis publications you were not handling any other magazines, were you?

A. In a retail way I was handling everything.

Q. Wholesale, I mean.

A. No, not wholesale.

Q. That was your first wholesaling of the magazine?

A. Yes, sir.

Q. That Curtis publication?

A. Yes, sir.

MR. WELCH: That is all.

RE-RE-DIRECT EXAMINATION.

By MR. DALY:

Q. When you stated there was no other wholesaler in your city, what do you actually mean?

MR. WELCH: Well, now—well, go ahead.

A. I am not the only wholesaler there; that the Curtis man wholesaled his papers, that is, the "Post" and the "Home Journal."

By MR. DALY:

Q. Yes. But you said there was no other wholesaler but you and this small man.

A. That is all.

MR. WELCH: I move to strike that out.

MR. DALY: I will withdraw that question. I don't want it.

EXAMINER MOORE: The question withdrawn.

By MR. DALY:

Q. Than the district agent, the Curtis man?

A. That is all.

MR. DALY: Strike that out, that small man, I don't care anything about that. That is all.

---

FRANK KLEINSCHMIDT was called as a witness on behalf of the Commission, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. SPIESS:

Q. What is your full name, Mr. Kleinschmidt?

A. Frank Kleinschmidt.

Q. Where are you located?

A. Gary, Indiana.

Q. What business are you in, Mr. Kleinschmidt?

A. Book store, stationery, cigars and tobacco.

Q. Wholesale or retail?

A. Well wholesale and retail.

Q. How long have you been in the wholesale business?

A. In the wholesale?

Q. Wholesale business of newspapers and magazines.

A. Well, in the newspaper game the last time I commenced——

Q. Combined with newspapers and magazines.

A. Well, just since last October. I have sold out once.

Q. How long before that were you a wholesaler of newspapers and magazines?

A. Well, I went about ten years ago—I was in business about eleven years ago.

Q. How long were you in the business wholesaling newspapers?

A. Well, since August 8th, three years ago last August, newspapers, handled Curtis Publishing Company publications.

Q. Then you were wholesaling?

A. After I sold out the newspaper business, about nine years ago I sold the newspaper agency but not the——

Q. Then you were a wholesaler of newspapers before you took over the Curtis agency, is that true?

A. No, I took them at the same time, about ten years ago, but I sold out the newspaper agency afterwards and kept the Curtis agency.

Q. Can you fix now in your mind which you had first, newspapers or the Curtis magazines?

A. Well, they came about together, about the same time, ten years ago.

Q. The same day?

A. Not the same day. No, I couldn't remember exactly the same time.

Q. Then you can't tell which you had first?

A. No, I can't.

Q. What newspapers did you wholesale?

A. Chicago newspapers and Gary.

Q. Did you handle any other magazines before you handled Curtis?

A. We sold them in the store, we handled all magazines.

Q. I mean wholesale?

A. Not wholesale.

Q. Do you handle the "Pictorial Review"?

A. Yes, sir.

Q. How long have you been handling that?

A. I think a little over a year.

7 4 7

Q. A little over a year?

A. I think so.

Q. Have you received any instructions from the Curtis Company since you have been handling "Pictorial Review" about handling publications of any any other publisher?

A. Why, they wrote me and said that I shouldn't handle any publications without getting their consent.

Q. Did you get their consent to handle "Pictorial Review"?

A. No, sir.

Q. Was anything said to you about Curtis objection; that is, did any representative of the Curtis Company object to handling "Pictorial Review"?

A. They were in there.

Q. Who was in there?

A. I don't know his name. He is a little man back there.

Q. Do you recognize him?

A. Yes, sir.

Q. Is he here?

A. Yes, sir; he is here. What is the name?

MR. WELCH: Mr. Reynolds.

By MR. SPIESS:

Q. What did he say about handling "Pictorial Review"?

A. We told him that we were handling them, we handled them in the same way. We were not wholesaling them out.

Q. When was this?

A. When we started to put, to get them direct from the Pictorial people.

Q. What did Mr. Reynolds say then?

A. He said he didn't care if we handled them at all as long as it was in the store.

Q. He meant in the retail?

A. I don't know, I suppose so.

Q. You didn't wholesale?

A. We didn't wholesale.

Q. You are now?

A. Yes.

Q. When did you begin wholesaling?

A. Well, we run the newspaper separate.

Q. After you started to handle the "Pictorial Review," did you receive any objection from the Curtis Company?

A. No, sir; we have not.

Q. Did you receive any letters about the month of March, 1917, calling your attention to clause 13 of their contract about handling the publications of other publishers?

A. I think we did; yes, sir. We didn't mention the Pictorial that I know of.

Q. Now, Mr. Kleinschmidt, you say you are handling "Every Week" magazine?

A. Yes, sir.

Q. Do you recall ever writing them a postal card asking their permission to handle "Every Week" magazine?

A. No, sir. You see, my son might have written. I have two sons in the business. They might have written.

Q. Well, do you take the authority for communications your son writes in connection with your business?

A. As far as I know, as long as it is right, yes, sir.

Q. Well, if they did send a card to the Curtis Company asking permission, it would be with your endorsement, wouldn't it?

A. Yes, sir.

Q. Now, have you a son by the name of F. Kleinschmidt?

A. No, I have one by the name of Frank. He might have used my name. He has got the authority to use my name.

Q. Now, I show you a postal dated July 26th from Gary, Indiana, to the Curtis Publishing Company, and ask you if either you or your son wrote that?

MR. WELCH: What is the year, Mr. Spiess?

MR. SPIESS: No year on it.

MR. WELCH: The postmark?

MR. SPIESS: The postmark is 1916.

THE WITNESS: It looks like my son's writing.

By MR. SPIESS:

Q. Do you take authority for that?

A. Yes, sir.

MR. SPIESS: I offer that. (Handing document to Mr. Welch.)

MR. WELCH: No objection.

EXAMINER MOORE: The document is admitted without objection.

(Document was received and marked "Commission's Exhibit No. 68," the same being in words and figures as follows, to wit):

"Post Card. (Stamp):

Gary, Jul 26, 16 3:30 PM Ind.

The Curtis Pub. Co.
Philadelphia,
Penn.

(Red ink stamp): Daily Mail Jul 28 1916 Scatter
Received Jul 28, 1916 A. M.
Ladies' H. Journal.
July 26 —

(Reverse):

(Gary)

Dear Sir:

We received a letter this morning from the Every Week Co. wanting us to be agents for their

sheet, but I would like to know first if you have any objections to us handling them.

F. KLEINSCHMIDT.

(Red ink stamps): Received Jul 31 1916 Central Co
July 27 1916
R 160."

(Above exhibit in ink.)

By MR. SPIESS:

Q. I now show you carbon copy of a letter dated July 31, 1917, addressed to Frank Kleinschmidt by the Curtis Publishing Company, marked Commission's Exhibit 69, and ask you if you remember receiving the original of that letter?

(Paper handed to witness.)

A. I might have got it and the boy might not have shown it to me, because it was quite common for him to get letters and not show them to me.

Q. Have you a copy of that letter with you?

A. No, sir; I have not.

Q. What papers are these (indicating)?

A. These are not mine. They dropped on the floor here.

(Mr. Spiess hands letter to Mr. Welch.)

MR. WELCH: That is all right.

MR. SPIESS: We offer this copy in evidence.

EXAMINER MOORE: The letter is admitted without objection.

(Letter was received and marked "Commission's Exhibit No. 69," the same being in words and figures as follows, to wit):

"July 31, 1916.

Mr. Frank Kleinschmidt,
678 Broadway,
Gary, Indiana.

Dear Sir:

In reply to your letter dated July 26:

In justice to you, and to avoid any situation which would be embarrassing to both you and us, we feel it our duty to say that if you were to undertake it, we should wish to cancel your arrangements with us.

Our relations have been so very pleasant and satisfactory that we hope to be able to supply and serve you indefinitely hereafter.

Very truly yours,

THE CURTIS PUBLISHING COMPANY.

*District Manager.*

Dictated by
MED BHL"
(Above letter was in typewriting.)

By MR. SPIESS:

Q. So after receiving the objection of the Curtis Company to your handling "Every Week" you have still continued to handle it?

A. Why, when we bought out Mr. Klink we fell heir to the agency. We had to take everything else. The first of October, 1917, we bought Mr. Klink. He was agent for "Every Week." In fact they stopped "Every Week" without our stopping their agency. It came through the Western News.

Q. Well, now, in this letter of July 31, 1916, you were writing about "Every Week"?

A. I know, but we didn't take it at that time. Mr. Klink had the agency.

Q. Why did they write to you?

A. That is something I don't know. I suppose they wanted to change agencies.

Q. Well, it is possible that your son wrote? What year was that?

A. Well, we didn't take the agency at that time.

Q. "Every Week"?

A. "Every Week." They wrote to us.

Q. You wrote to the Curtis Company about taking it?

A. The boy did, yes.

Q. And they wrote you back and said if you did they would wish to cancel any arrangement that they had with you?

A. I suppose so.

Q. That is what this letter states.

A. Yes.

Q. You didn't take it then?

A. We did not.

Q. But after you bought out Mr. Klink you did continue as he was doing and distribute "Every Week"?

A. No, sir; I will take that back. It stopped for a couple of weeks. He stopped the order and they wrote us they wanted us to take the agency, they wanted us to sign the contract and we didn't sign the contract, and in a couple of weeks it came through the Western News Company.

Q. So you are not wholesaling "Every Week"?

A. We are, yes, sir. Hold on now. I don't know whether we are. You see the boy attends to that. I don't know.

Q. Are you wholesaling "Pictorial Review"?

A. Yes, sir. It comes through the store, but he attends to it. I have nothing to do with it.

Q. How many boys have you got?

A. All kinds of boys.

Q. All kinds of boys?

A. There are seventy-five or eighty.

Q. Some of those boys are boys that handle exclusively Curtis publications?

A. I think about twenty.

Q. What do you report?

A. Just that amount, about twenty, I think.

Q. Of those boys, are there any that handle newspapers?

A. No, sir; nothing but Curtis publications.

Q. If they handled newspapers would you report them to the Curtis Company?

A. The question never came up. We have boys that sell at the corners, that we give "Saturday Evening Posts" to, but they are our "Posts."

Q. But you make no report to the Curtis Publishing Company?

A. No, sir.

Q. Are you the only wholesaler that there is in Gary?

A. As far as I know, yes, sir.

Q. How many retailers are there?

A. How many retailers? I think there are about seven.

Q. Do you reach all of them?

A. Do we what?

Q. Do you reach all of them, serve all of them?

A. All but one.

Q. Do you know whether the American News Company serves all of the retailers?

A. The Western News.

Q. Do they serve the retailers?

A. With the exception of one. They handle nothing but "Hearst's" and "Every Week" and the Curtis publications.

Q. Is that the same one that you don't serve?

A. No.

Q. That is a different one?

A. That is a different man.

Q. How does the American News Company serve these retailers?

A. The Western News, you mean.

Q. Yes, that is the same.

A. Well, I suppose——

MR. WELCH: If you only suppose, I object.

By Mr. Spiess:

Q. I will ask you whether or not the Western News Company is a branch of the American News Company?

A. I suppose they are.

Q. How do they reach the retailers?

A. I suppose——

Mr. Welch: Ask him if he knows.

By Mr. Spiess:

Q. How do they reach the retailers, if you know?

A. They reach me.

Q. How do they deliver to the retailers, if you know?

A. They deliver to me by express.

Q. How far is the Western News Company away from Gary, Indiana?

A. Twenty-six miles.

Q. Then the American News Company has no——

Mr. Welch: Don't lead him. I object to that form of question.

By Mr. Spiess:

Q. Do you know whether or not the Western News Company or the American News Company has an agency in Gary, Indiana?

A. It has no agency that I know of, unless it is just the same as I am an agent. I buy my magazines of them.

Q. But they have no agent in Gary, Indiana, as far as you know that distributes except by express?

A. No, sir; only by express.

Q. Now, have you ever received any money from the Curtis Company for obtaining boys?

A. For obtaining boys?

Q. Yes, for obtaining boys for handling Curtis publications exclusively?

A. No, sir; I never got any boys.

Q. You never have?

A. For the Curtis people?

Q. Did they ever send you any boys?

A. By advertising and through having meetings, yes, sir.

Q. But you have never obtained any?

A. I have not.

Q. Have you not gone to the boys' homes to coax them as to how to sell Curtis publications?

A. I have not.

Q. Did you ever go to the schools to obtain boys?

A. I did not.

Q. Did you ever get any money for promotion that you have done of the boys so far as educating them to be good salesmen?

A. I did not. They have done all that themselves.

MR. SPIESS: That is all.

CROSS-EXAMINATION.

By MR. WELCH:

Q. I didn't quite understand, Mr. Kleinschmidt, what your business was ten years ago when you started in the wholesale business.

A. Bookstore, stationery, that is blank books, magazines.

Q. Did you handle newspapers then?

A. I handled them at retail then for a little while until I got the agency.

Q. Until you got what agency?

A. Chicago newspaper agency.

Q. What magazines, what publications did you handle at that time?

A. You mean retail or wholesale?

Q. Wholesale.

A. None of them until I got the Curtis.

Q. What was the first publication that you ever handled wholesale?

A. The Curtis.

Q. The Curtis publications?

A. Yes, sir.

Q. And prior to that you never handled any magazines?

A. No, sir.

Q. At wholesale, or any other publications?

A. No, sir; I did not.

Q. Now, you sold "Pictorial Review," I understood, in your store, didn't you?

A. In the store.

Q. Was that at retail?

A. At retail.

Q. Where did you obtain those "Pictorial Reviews" from?

A. For a while we got them through the Western News until we got a circular letter or letter saying that they would like to sell them to us direct, and then we got them direct from the publishers.

Q. How many years did you get them from the Western News Company, the "Pictorials"?

A. Oh, I don't know. We have got them for ten years.

Q. I am speaking of the "Pictorial," how many years?

A. I don't know how many they were in existence.

Q. Well, from the time you first started to sell them at retail you obtained them from the Western News Company?

A. Yes, sir.

Q. And then later on the "Pictorial Review" wrote you and suggested that you buy direct from them?

A. Yes, sir.

Q. When was that?

A. Well now, I couldn't tell exactly.

Q. A year ago?

A. Somewhere around a year, a year and one half or two years.

Q. Two years ago?

A. I won't say for sure.

Q. And since that time you have been buying your "Pictorial Reviews" direct from the Pictorial Review Company?

A. Yes, sir; as far as I know.

Q. Do you wholesale "Pictorial Reviews" now?

A. Yes, sir.

Q. And when did you start to do that?

A. Why, I think somewhere around the last six, seven, eight months. I am not sure.

Q. You got those, of course, direct from the Pictorial Review Company?

A. Yes, sir; as far as I know.

Q. Now, you spoke of handling "Every Week," did you mean wholesale or retail?

A. We sold it retail all the time.

Q. Always sold "Every Week" at retail?

A. Yes, as long as they had an agent there.

Q. How do you get these copies of "Every Week" into your hands, who do they come from?

A. From Mr. Klink.

Q. No, I mean when you first started "Every Week"?

A. He was agent.

Q. I know. From whom did you receive them?

A. From Mr. Klink, he was the agent at Gary and we got them through him.

Q. Well, you didn't always get them from Mr. Klink. Didn't you get them from the Western News Company?

A. I don't think so. I don't think we handled them at that time.

Q. You did not?

A. We did not.

Q. When you first took them, "Every Week," you got them from Mr. Klink?

A. Yes, sir.

Q. Was Mr. Klink the wholesaler for "Every Week"?

A. He was.

Q. Then you handled "Every Week" at retail?

A. At retail.

Q. Do you handle "Every Week" wholesale?

A. We do.

Q. Where do you get it?

A. Western News Company; we cut it out until——

Q. Do I understand that you handle "Every Week" at wholesale now?

A. I think we wholesale it. I am not sure until I look.

Q. And you receive your copies from the Western News Company?

A. Western News Company.

Q. What other magazines do you handle?

A. I gave this man a list of them. I would like to have him show that sheet. I had the boy yesterday put them down. I gave him a copy. (Paper handed to witness.) "Collier's," "Literary Digest" and "Every Week," "Pictorial Review," "Good Housekeeping," "Motor" and "Motor Boat"—

Q. Which of those did you get through the American News Company?

A. "Cosmopolitan," "Harper's Bazaar," "Saturday Evening Post," "Country Gentleman," "Ladies' Home Journal," "General Story Picture," "Melting Pot," "Pearson's," "Motion Picture Magazine," "Snap," "Parisioner," "Smart Set," "Jim Jam Jems."

Q. Now, do you handle all those at wholesale?

A. Yes, sir.

Q. How many of those do you get through the Western News Company?

A. "Every Week."

Q. That is the only one?

A. That is the only one.

Q. Where do you get "Jim Jam Jems" from?

A. Somewhere in North Dakota or South Dakota, I think.

Q. Well, don't you get it through the Western News Company?

A. No, sir; we do not.

Q. Now, when you took over Klink's agency, which I understood you to say was October 1, 1917.

A. Yes, sir.

Q. When you took over the wholesaling of——

A. Of the Hearst's publications.

Q. And you took also the wholesaling of "Every Week"?

A. We did not.

Q. You took only the retailing?

A. We did until we cut it out entirely, but in a couple of weeks it came with the regular magazines from the Western News without any soliciting or anything.

Q. And you now wholesale, you wholesale "Every Week," which you receive from the Western News Company?

A. Yes, sir.

Q. And the Western News Company, I understand you to say, serves and delivers magazines and periodicals and publications to all of these seven retailers except one, isn't that a fact?

A. They send them by express, I suppose.

Q. Well, they deliver them, they serve them, and they deliver them to all the retailers except one?

A. As far as I know.

Q. Well, you so testified?

A. Yes.

MR. WELCH: That is all.

RE-DIRECT EXAMINATION.

By MR. SPIESS:

Q. Do you know who pays the express charges on magazines distributed to them by the Western News Company?

A. I don't know anything about that, only what I pay.

Q. Well, do you pay?

A. I pay.

Q. You pay the express company for the magazines shipped to you by the Western News Company?

A. The Western News Company.

Q. Do you charge the retailers in the towns anything for distributing magazines to them?

A. What do you mean?

Q. Any express charges?

A. I do not.

Q. These magazines that you say you are now handling wholesale, have you ever obtained the permission of the Curtis Company to handle them?

A. Why, the newspaper magazine business, that is, is under a different head. We run the magazine business under one head and the store business under another head. The Curtis publication, however, goes with the newspaper business and the magazines are run under another business, all entirely separate. The cash account and the bank account and everything is separate.

Q. You mean then that you consider the Curtis publication as newspaper items, articles?

A. We always add it under that head. We always add that part that were not in the wholesale magazines

until lately we done that through the store and the Curtis Publishing Company is in the newspaper department.

MR. SPIESS: That is all.

RE-CROSS-EXAMINATION.

By MR. WELCH:

Q. What do you pay the American News Company for "Pictorial Review"?

A. We don't buy them from the Western News Company, we buy them direct.

Q. Do you remember what you paid the Western News Company?

A. Eleven cents and the express.

Q. That was formerly?

A. Formerly.

Q. Klink was the former agent for the Curtis publications?

A. No, sir.

Q. Who was Klink?

A. Klink was the agent of the Chicago papers and the Hearst publications.

Q. Didn't he handle the wholesale publications of the Curtis Publishing Company?

A. At no time. I have had it ever since the town started.

Q. Oh, I see. You have had the Curtis publication and been the agent for the Curtis Company——

A. Ever since the town started.

Q. Ever since what?

A. Ever since the town started. The town is only ten years old, and I have been there ever since.

Q. Ever since the town has been started?

A. Yes, sir. I have been there ever since.

MR. WELCH: That is all.

JOHN MONROE was called as a witness on behalf of the Commission and, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Give your name and address.

A. John Monroe, Hillsdale, Michigan.

Q. How large a city is Hillsdale?

A. Five thousand.

Q. What is your occupation?

A. Wholesale and retail news dealer.

Q. How long have you been engaged in the business?

A. Four years.

Q. What do you handle, what do you sell?

A. Magazines and newspapers, maps, that is about all.

Q. Are there other wholesalers in that city besides yourself?

A. No, sir.

Q. How many retailers are there?

A. Seven.

Q. And do you cover them all?

A. Yes, sir.

By MR. WELCH:

Q. How many retailers?

A. Seven.

By MR. DALY:

Q. When did you make a contract with the Curtis Publishing Company?

A. September 28, 1917.

Q. Is that the contract that has a prohibitive clause in it?

A. Yes, sir; this one.

Q. Refraining you from handling other magazines than those from the Curtis Publishing Company?

A. Yes, sir.

Q. And that is the contract?

A. Yes, sir.

Q. What magazines did you handle prior to the execution of this contract?

A. Handled "Collier's," "Pictorial Review," Crowell Publishing Company papers and "Literary Digest," too.

Q. Have any objections been raised to your handling the "Pictorial Review" or any other publications by the Curtis Company?

A. Why, I asked them permission to handle the others and they would not sanction it.

Q. Did you write or not, asking this permission?

A. I wrote, asking for it, yes, sir.

Q. Will you look at this letter (document handed to witness)?

A. Yes.

Q. Is this the letter you wrote with reference to your asking permission?

A. That is the letter I wrote to the "Pictorial Review," isn't it?

MR. DALY: Yes, I will withdraw that.

Q. You asked permission, you stated, of the Curtis Company to handle the "Pictorial Review" and other magazines, is that correct?

A. Yes, sir.

Q. Will you look at this letter (handing document to witness); did you receive that?

A. Yes, sir.

(Mr. Daly hands letter to Mr. Welch.)

MR. WELCH: No objection.

MR. DALY: We offer this letter.

EXAMINER MOORE: It may be admitted in evidence without objection.

(Letter was received and marked "Commission's Exhibit No. 70," the same being in the words and figures as follows, to wit):

"THE CURTIS PUBLISHING COMPANY
Independence Square
Philadelphia.
*The Ladies' Home Journal*
*The Saturday Evening Post*
*The Country Gentleman*
Sales Division
Circulation Department.
M. E. Douglas, Manager.

December 27, 1917.

Mr. John Monroe,
66 Howell Street,
Hillsdale, Michigan.

Dear Mr. Monroe:

Your inquiry dated December 22nd is by us valued for your very proper unwillingness to put yourself, the District Agent, in any relation unfriendly to us, the Principal.

We hereby notify you that we cannot sanction your wholesaling the Pictorial Review to dealers or boys.

With reference to the Warner Publications, Motion Picture and Motion Picture Classic: Unless the publishers of these periodicals or their representatives should adopt some sales method that would threaten the integrity of our Sales Organization, we see no reason to think your acting for them need necessarily result disadvantageously for us.

Two other questions occur to us: By assuming these additional obligations to the Warner

Publications, Motion Picture and Motion Picture Classic, would you spread yourself out so 'thin' that you could not fulfil all of your obligations as our District Agent? Would your local sales of our publications fall below your State's ratio of sales to population?

If, or as long as, none of the above results follow, we shall have no occasion to withdraw approval of your distributing these periodicals *to newsdealers only.*

Upon the condition stated we have no objections to the proposed arrangement and our approval is given with the understanding that the relation of District Agent and Principal under the agreement between us is in no way modified by this sanction.

Yours truly,

THE CURTIS PUBLISHING COMPANY.

J. F. Donnelly,

*District Manager.*

MED BHL

Dictated by

M. E. Douglas."

(Above letter in typewriting.)

By MR. DALY:

Q. Were you seen by any of the representatives of the Curtis Company prior to the passage of these letters between you?

A. Yes, sir.

Q. Who was it that saw you first?

A. M. D. Reynolds.

Q. Did he speak to you about your contract—did he know that you were handling the "Pictorial Review"?

A. Yes, sir.

Q. What did he say to you about handling that?

A. He said that "Next month when I come here and inquire of the other dealers where they are getting the publications, the 'Pictorial Review,' if those dealers can answer truthfully that they are not getting them from John Monroe."

Q. Well, is that all that he said to you? Did he object to your handling it or not?

A. Oh——

Q. Why did you write this letter in asking permission?

A. Why, I knew that there is difficulty between the "Pictorial Review" and the Curtis Publishing Company and that they would take my contract away. I understood that the Curtis people would take my contract away from me if they knew that I handled the "Pictorial Review."

Q. How did you learn that, that they would take your contract away from you?

A. Because—well, I learned from the Curtis Publishing Company's representative, Mr. Wells, when he was first there and looked over my contract.

Q. He knew, however, that you were handling the "Pictorial Review" prior to the time that you made the contract with them?

A. Yes, sir.

Q. You told him that, did you?

A. Yes, sir.

Q. Did they take their publications away from you?

A. They have not yet. They have not—I don't suppose, or they have not learned officially that I am the representative of the "Pictorial Review" and the Curtis Publishing Company.

Q. You never notified them that you had taken these papers?

A. Well, now, I have since I got that letter. I wrote back and I told them that I expected to win their

consent to any other magazine that I might handle. I told them that I had already signed a contract with "Pictorial Review" prior to the taking of the Curtis publications.

Q. By making a contract with the Curtis company, is that what you mean?

A. Yes.

Q. How many retailers are there in your city?

A. There is seven.

Q. You serve them all?

A. Yes.

Q. Does the American News Company send magazines there?

A. They serve three of them.

Q. How do they serve them, through what source?

A. Oh, mail and express.

Q. How long were you handling magazines before taking on, before the taking on of the Curtis Publishing Company's publications?

A. Three years and one-half.

Q. What magazines did you handle?

A. Why, I handled all that the Western News Company put out.

Q. Well, do you remember what they were?

A. Oh, there is a large number of them.

Q. Handled newspapers, did you?

A. Yes, sir.

MR. DALY: That is all.

CROSS-EXAMINATION.

By MR. WELCH:

Q. Now, you testified that you handled in the beginning "Collier's," "Pictorial Review" and the Crowell publications and the "Literary Digest"; isn't that a fact?

A. I handle those as a wholesale dealer, for those.

Q. Yes, you handle those wholesale, do you?

A. Yes.

Q. Did you deal in those magazines wholesale?

A. Yes.

Q. You sold them retail?

A. I sold them over my counter at the newsstand.

Q. And you also distribute them as a wholesaler?

A. Yes.

Q. Where did you get those magazines from, particularly the "Pictorial Review"?

A. Since May I got them direct from the "Pictorial Review" people.

Q. Since May, 1917?

A. Yes.

Q. Prior to May, 1917?

A. Western News Company, Chicago.

Q. You received the "Pictorial Review" from the Western News Company; isn't that a fact?

A. Yes, sir.

Q. And you were selling the "Pictorial Review" wholesale?

A. Not then, not before May.

Q. Oh, well, now I understood you to say that you were handling all of those magazines that I named wholesale as well as retail from the beginning?

A. No, as far as they put them on a direct basis, why, I would take them up and handle them wholesale.

Q. Well, now, let's get this clear; before May, 1917, you didn't sell "Pictorial Review" wholesale?

A. That is right.

Q. That is correct?

A. Yes, sir.

Q. You only sold "Pictorial Review" at retail over your counter?

A. Yes, sir.

Q. So that at the time you made your Curtis con-

tract on September 28, 1917, were you or were you not handling "Pictorial Review" wholesale?

A. I was handling it wholesale to the dealers.

Q. To the dealers?

A. Yes, sir.

Q. Now, you said that you wrote to the Curtis Publishing Company and said you wanted their consent to handle the "Pictorial Review," as you had handled it before you took on the Curtis agency, you testified to that?

A. I wrote to them asking them permission to handle the "Pictorial Review."

Q. Yes. Is that letter here?

MR. DALY: No.

By MR. WELCH:

Q. Was that letter that you wrote a letter to which this is an answer or did you write another letter after that?

A. That letter is in answer to the letter I wrote them asking permission to handle the "Pictorial Review," and since then I have written them another letter.

Q. And what did the other letter say that you wrote them?

A. Telling them that I didn't think I would have any trouble getting their permission to handle the "Pictorial Review" as well as Warner publications, as well as other magazines, and that I had signed a contract with the "Pictorial Review" people.

Q. Did you call their attention then to the fact that you had been handling "Pictorial Review" before you took the Curtis agency?

A. I don't believe so.

Q. I thought you testified you did. Then as the result of that second letter which was written after you received this one you have received no further ob-

jection or any objection from the Curtis Publishing Company?

A. No, I doubt if it has been time enough for the letter to get back.

MR. WELCH: I move to strike that answer out and I ask for a direct answer to the question.

THE WITNESS: I have received no reply.

By MR. WELCH:

Q. What was the date that you wrote this last letter, do you remember?

A. No; it was just the day after I got that letter (indicating).

Q. Well, look at this letter and see what date it was (counsel hands letter to witness).

A. Oh——

Q. What is the date of the letter I have just shown you?

A. It is December 27th. It would take about two days for that to get there. I think I wrote them at the first day of January, 1918.

Q. You say you wrote them on January 1, 1918?

A. Yes.

Q. Since then you have had no objections of the Curtis Publishing Company to your handling the "Pictorial Review"?

A. No.

MR. WELCH: That is all.

MR. DALY: This letter was omitted, if the Examiner please, in the testimony of Mr. Peers, and we now desire to offer it.

MR. WELCH: And we consent to have it go in as part of Mr. Peers' testimony.

EXAMINER MOORE: It may be admitted without objection.

(Letter was received and marked "Commis-

sion's Exhibit No. 71," the same being in words and figures as follows, to wit):

COMMISSION'S EXHIBIT No. 71.

"March 12, 1917.

Messrs. Peers Brothers
108 East 2nd Street
Mishawaka, Indiana.

Gentlemen:

Your very kind letter dated March 7 is thoroughly appreciated.

Of course, you will not fail to apprehend that our announced policy with respect to The Pictorial Review is not necessarily an indication that our policy would be the same with respect to all other periodicals. On the contrary, we are sure you know that many of our wholesalers handle periodicals other than our own and that we have helped many of them to get agencies for other periodicals.

Should other offers be made you the only safe course would be to write for our approval in each case and we will advise you promptly as we did in the case of The Pictorial Review and you can then decide each case on its merits.

It is inspirational to me personally and gratifying to all of us to see the spirit of loyalty and one-mindedness manifested toward us by District Agents everywhere in this Pictorial matter; and we thank you for your renewed assurances as given in your letter dated March 7.

With all good wishes,

Very truly yours,

THE CURTIS PUBLISHING COMPANY,
*District Manager.*

Dictated by
MED SM"

(Above letter a carbon copy.)

EXAMINER MOORE: A recess will be taken until two o'clock.

(Whereupon, at 1.45 o'clock P. M., a recess was taken until 2.00 o'clock P. M. of the same day.)

---

AFTER RECESS.

(The hearing was resumed at 2.00 o'clock P. M., after the noon recess.)

EXAMINER MOORE: Proceed, gentlemen.

---

JOHN MONROE resumed the stand and further testified as follows:

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. Mr. Monroe, at the time of signing the contract of the Curtis Publishing Company with you, did you or not advise a representative of the Curtis Publishing Company that you were handling the "Pictorial Review"?

A. I did.

Q. Who was that representative?

A. M. D. Reynolds.

MR. DALY: That is all.

(The witness left the stand.)

MR. WELCH: May I ask one question?

MR. DALY: Yes. Come back, Mr. Monroe.

(The witness resumed the stand.)

RE-CROSS-EXAMINATION.

By MR. WELCH:

Q. You are still handling the "Pictorial Review"?

A. Yes.

Q. And you are still handling the Curtis publications?

MR. WELCH: That is all.

(Witness excused.)

LOUIS R. KILPATRICK, called as a witness on behalf of the Commission, being first duly sworn by the Examiner testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Give your name and address, Mr. Kilpatrick.

A. Yes, sir. L. R. Kilpatrick, Fort Wayne, Indiana.

Q. And your occupation?

A. I am a wholesale distributor of newspapers and magazines.

Q. What magazines do you distribute in a wholesale way?

A. All publications.

Q. Well——

A. Both publications that is supplied direct, and also some that I—that is controlled by the American News Company.

Q. Well, do you mean those magazines that you distribute?

A. Yes, sir. I distribute "Pictorial Review," the Hearst publications—such as "Hearst's," "Cosmopolitan," "Red Book," "Blue Book," "Green Book," "Popular Mechanics"—in fact, all publications that there is any demand for.

Q. Do you wholesale the Curtis publications?

A. I have been up until—well, I had them this last week. I presume they will come in a new dealer's name next week.

Q. Now, when did you begin business, Mr. Kilpatrick?

A. When did I begin handling the Curtis?

Q. No. When did you enter the wholesale magazine business?

A. The first of December, 1915.

Q. When did you begin handling the Curtis publications?

A. The first of January, 1916.

Q. Did you enter into a contract with them?

A. Yes, but I entered into a contract with the understanding that I was wholesaling all publications and expected to continue.

Q. And at that time were you handling these other publications?

A. Yes, sir.

Q. You mentioned "Pictorial Review."

A. I was handling them prior to the time that I took on the Curtis, or signed their contract.

Q. Now, that is a contract with an exclusive provision, is it not?

A. It is.

Q. Or, with a provision with reference to getting permission from the Curtis Company to handle other magazines?

A. Yes. And when Mr. Reynolds came down I told him that I was wholesaling all publications, and expected to continue—before I signed that contract. "Well," he says, "this contract has got nothing to do with publications that you are already wholesaling." And then I asked him—then when I asked him to scratch out that clause—I had two witnesses in my office at that time.

Q. What clause do you refer to?

A. Well, the clause where it says—prohibits us from wholesaling any other publications but Curtis' stuff. I told him at that time that—in fact, "Woman's Home Companion" or "Pictorial Review"—when he was there we was putting it out—one or the other of them. In fact, we had them in the place, and I called his attention to them. I don't remember whether it was "Pictorial" or "Woman's Home Companion," but one or the other of them we were putting out at the stand.

Q. And after that you signed the contract with Curtis?

A. After that, yes—thirty days after I was started in business.

Q. Now, how many "Posts" do you handle—did you handle?

A. Well, at the time that I took over the agency they were handling about fifteen hundred and twenty-five, I think.

Q. How many "Posts"—"Home Journals"?

A. Well, I would say about seven hundred, about the same as we are handling now. There is not much difference.

Q. How many "Pictorial Reviews" were you handling?

A. We were handling in the neighborhood of two hundred and fifty at that time. But, of course, there was some—their pattern people were getting their supplies direct. Now we are supplying them ourselves, and the news companies had a few accounts at that time in Fort Wayne—that is, a few more than they have now. They still have a few there now, very few.

Q. Now, at the time that you have been testifying about here, what was the proportion of your business—what proportion of your business did the Curtis publications make up, approximately?

A. A very small proportion of it. That is, I should say we do a business of, oh, approximately $1100 a week there.

Q. Your whole business was that?

A. Yes, sir. And I will say that, oh, the Curtis probably will average $60 a week of that $1100.

Q. Did you ever request the Curtis Publishing Company to permit you to handle other magazines under that contract?

A. No, sir; I had—I took—I signed that contract

with the understanding that I was going to continue to wholesale publications as I had been prior to the time of signing it. Therefore, I did not think it was necessary to get any permission. I considered that I had thrashed that out with them before I signed the contract, and I told their representative, Mr. Reynolds——

Q. Now, were ever any objections raised to your handling other publications?

A. Yes, sir; after the——

Q. By whom?

A. Well, after—along last March, when the "Pictorial Review" was thinking of breaking with the News Company, or in other words, supplying wholesalers direct, why, the Curtis wired me, wanted to know who the new agent was, and also sent a number of circular letters calling my attention to a certain clause in the contract. And I wrote them at that time that I did not see why that question should come up at that time, because it was thrashed out when I took over the agency.

MR. WELCH: Now, I object, and move to strike that out, what he wrote.

MR. DALY: Yes. I have the letter here, I think.

THE WITNESS: Yes.

By MR. DALY:

Q. Now, you wrote them; however, didn't you?

A. I dictated them, yes.

Q. Is this the letter that you wrote after these objections had been raised? (Handing paper to the witness.)

A. Yes, sir.

MR. DALY: That is a carbon copy. (Addressing opposing counsel.) Have you the letter there in that correspondence?

MR. WELCH: Yes.

MR. DALY: If it is in the correspondence—that letter that we asked for there, I think it would be better to produce it.

MR. WELCH: Yes.

MR. DALY: Now, give us the original letter.

(The paper was produced.)

By MR. DALY:

Q. Will you look at this letter? (Handing same to the witness.)

A. Yes, sir. That is my signature, and I dictated that letter.

MR. DALY: We offer that letter.

EXAMINER MOORE: The letter is received without objection.

(The letter was received and marked "Commission's Exhibit No. 72," the same being in words and figures as follows, to wit:)

COMMISSION'S EXHIBIT No. 72.

(In pencil) "telegram to—
See Holl (4/27)"

C. A. 9-S 475

"REPLY SHEET

PLEASE WRITE YOUR reply below for a prompt adjustment of the matter referred to. Do not return the original letter. Retain the original for your future reference.

Replying to your letter on the reverse side, I am at a loss to know why this question should be asked at this time. I have always handled Pictorial Review, my predecessor handled Pictorial Review, and I made it known to your representative when he turned over the Curtis business to me. I also made it known to him that we handled all publications that there is any demand for.

The Pictorial is a publication that is sold over

the news stands and not through boys. At least that is the condition in this town. The news business is such at this time that an independent dealer has to make his organization earn just as much money as possible. We cover forty miles with our routes, and have to keep two cars in service in order to give them good service.

We understand that you and other publishers give some of the independent dealers in the larger cities a salary which helps to defray the overhead expense. We have never received anything like this, only in two or three exceptions.

Hoping that this is the desired information, I beg to remain.

Yours very truly,
(Signed) L. R. KILLPATRICK."
(In pencil) "On Pict list—"

(The following rubber stamps appear on Exhibit No. 72:)

"RECEIVED MAR 26 1917 F. M. B."

"ANSWERED MAR 30 1917 M. E. D."

"ANSWERED MAR 30 1917 M. E. D."

"ANSWERED MAR 30 1917 J. F. D."

"SCATTER MAR 24 1917 DAILY MAIL."

(In pencil) "from 60c. to $1.50"

(In pencil) "Refer to me on 4/1 MED" "M E D"

(On the reverse side appears the following carbon copy of letter.)

"Mar. 9, 1917.

Mr. L. R. Killpatrick,
15 Arcade Building,
Ft. Wayne, Indiana.

Dear Mr. Killpatrick:

If you will be so kind I should like to have

you tell me, at your convenience within the next few days, the name and address of the local agent



for Pictorial Review. A reply sheet and a stamped envelope are inclosed for your use.

Thanking you in anticipation of this favor.

Very truly yours,

THE CURTIS PUBLISHING COMPANY,

*District Manager.*

JFG HG"

(The following rubber stamp appears:)

"MAR 24 1917

DAILY MAIL K"

By MR. DALY:

Q. Now, you received a reply to that, didn't you?

A. Why, I received a reply in person by a personal representative.

Q. Well, who was that representative?

A. Mr. Nutter, and Mr. Holl.

Q. Will you look at this letter? Did you receive that reply? (Handing paper to the witness.)

A. I don't remember of receiving this letter, but I have read letters similar to it, written to other dealers. I may have received this one, but I cannot recall it. I don't believe I have it in my files. I don't remember if I ever received it.

MR. DALY: I offer this letter.

MR. WELCH: Yes. All right.

EXAMINER MOORE: Received without objection.

(The letter was received and marked "Commission's Exhibit No. 73," the same being in words and figures as follows, to wit:)

COMMISSION'S EXHIBIT No. 73.

"March 30, 1917.

Mr. L. R. Killpatrick,
15 Arcade Building,
Fort Wayne, Indiana.

Dear Mr. Killpatrick:

Our inquiry concerning The Pictorial Review resulted from a suggestion to us to the effect that you had made a new arrangement for the wholesaling of that publication—an arrangement unlike any that you had in effect with it at the time of your contract with us.

The new arrangement mentioned to us is, as we understand it, one by which you receive your supplies from a source other than that from which you obtained the copies prior to the date of your agreement with us.

We, of course, will stand absolutely by any arrangement in effect before your contract with us was made. But we could not lend our approval to an arrangement for you to draw from a source of supply other than that from which you previously may have drawn supplies to wholesale to newsdealers in your city.

If you will think on this thing you will perceive that our inquiries are directed in your interests as well as in our own. We are desirous of co-operating with you in every way we can and the contractual clause in point is a token of our fair dealing as well as a badge of our self-respect.

We are for everything that makes for permanent mutual advantage for you and for us; and there are numerous publications which we should be quite willing for you to wholesale if by doing so you could increase your income without disadvantage to us.

We therefore request that you advise us from what source you draw your supply of The Pictorial Review issue dated next before the date of your contract with us and from what source you ordered your supply of the May 1917 issue.

We thank you in advance for an early reply.

Yours very truly,

THE CURTIS PUBLISHING COMPANY,
*Manager Sales Division.*

MED FSH"

(Rubber stamp) "REFER TO
MR. DOUGLAS"

(In pencil) "4/17."

A. Now, understand, I might have received this letter, although I cannot refresh my memory. I have received similar letters along that line there.

Q. It seems to be a reply to your letter.

MR. WELCH: A reply to your letter.

By MR. DALY:

Q. Now, you had had other notices with reference to this contract prior to that time?

MR. WELCH: Now, I object to leading the witness in that way.

By MR. DALY:

Q. Well, did you have other notices?

A. Yes.

Q. Will you look at that? (Handing paper to the witness.)

A. Yes; I received this, calling my attention to it.

MR. DALY: We offer this letter, dated February 5, from Mr. Douglas to Mr. Killpatrick.

EXAMINER MOORE: It may be received without objection.

(The letter was received and marked "Com-

mission's Exhibit No. 74," the same being in words and figures as follows, to wit:)

COMMISSION'S EXHIBIT No. 74.

"THE CURTIS PUBLISHING COMPANY
INDEPENDENCE SQUARE
PHILADELPHIA
THE LADIES' HOME JOURNAL
THE SATURDAY EVENING POST
THE COUNTRY GENTLEMAN.
SALES DIVISION
CIRCULATION DEPARTMENT
M. E. DOUGLAS, *Manager.*

Feb. 5, 1917.

Mr. L. R. Killpatrick,
Fort Wayne, Indiana.
Dear Mr. Killpatrick:

The plans of another publisher and his agent (news company) lead us to remind you of Clause 13 of your Curtis contract. The purpose and effect of that clause are as follows:

> WITH RESPECT TO PERIODICALS NOT PREVIOUSLY WHOLESALED BY YOU, YOU DEFINITELY AGREED TO REFRAIN FROM WHOLESALING TO BOYS OR DEALERS ANY PERIODICALS NOT OUR OWN WITHOUT FIRST OBTAINING OUR APPROVAL.

Of course you will be very careful to make with the other publisher or his agent (news company) no arrangement contrary to your Curtis contract.

In justice to you and to avoid any situation which would be embarrassing to both you and us, we feel in duty bound to say that your arrangements with us may be continued only upon the basis stated.

Our relations have been so very pleasant that we hope to be able to supply and serve you indefinitely hereafter.

This is a general letter to all of our District Agents. Please attach it to your Curtis contract for future reference.

Very truly yours,

THE CURTIS PUBLISHING COMPANY.

(Signed) M. E. Douglas,

*Manager Sales Division.*

MED"

By MR. DALY:

Q. A letter dated—— Will you look at this letter, Mr. Killpatrick, dated February 28, 1917 (handing same to the witness)?

A. Yes, sir; I received that and made this notation myself, and that line under there (indicating).

MR. DALY: We offer this.

EXAMINER MOORE: It may be received, no objection.

(The letter was received and marked "Commission's Exhibit No. 75," the same being in words and figures as follows, to wit):

COMMISSION'S EXHIBIT NO. 75.

"THE CURTIS PUBLISHING COMPANY
Independence Square
Philadelphia
*The Ladies' Home Journal*
*The Saturday Evening Post*
*The Country Gentleman*
Sales Division
Circulation Department
M. E. Douglas, Manager.

Feb. 28, 1917.

Dear Mr. Killpatrick:

To a few Curtis District Agents, statements by

another publisher or his representative have given a wrong idea about one clause of your contract with us. Therefore we again state the effect of that clause:

> You definitely agreed to obtain our approval *before* you make *any* new arrangements to wholesale to boys or *dealers* any non-Curtis periodical (magazine).

You are hereby cautioned against any and all advice or solicitation contrary to this part of your contract.

And you will not fail to take notice that the clause covers wholesaling to dealers as well as to boys.

Of course this does not apply to newspapers nor to arrangements in effect before the date of your contract with us.

You may not see why this letter is sent to you. Probably no one has made representations as above. But such statements have been made to others, and we therefore send this general letter to all District Agents that all may have a full understanding.

> *At any time thereafter if you should desire to wholesale any other magazine, write for our approval and give us full particulars. This is the sure way to mutually satisfactory arrangements.*

Like our earlier notice dated February 5, this letter should be attached to your Curtis contract for future reference.

Very truly yours,

THE CURTIS PUBLISHING COMPANY.

(Signed) M. E. Douglas,

*Manager Sales Division.*

MED"

By MR. DALY:

Q. Will you look at this letter signed by our Grouchy, concerning your district agency agreement?

A. Yes, sir; I received that one also.

MR. WELCH: Let me see that, will you? (Addressing opposing counsel.) What did he testify about this?

MR. DALY: He testified that he received it, yes.

MR. WELCH: Well, I mean, it is not addressed to him whatever. It is not dated or addressed to him.

THE WITNESS: Well, sir, that was received by me and I took it out of my files before coming down here.

MR. DALY: We offer that Grouchy letter.

EXAMINER MOORE: The letter is received without objection.

(The letter was received and marked "Commission's Exhibit No. 76," the same being in words and figures as follows, to wit):

COMMISSION'S EXHIBIT No. 76.

"THE CURTIS PUBLISHING COMPANY
Independence Square
Philadelphia

Circulation Department
Sales Division.

*The Ladies' Home Journal*
*The Saturday Evening Post*
*The Country Gentleman*

Concerning Your District Agency Agreement.

At this time it is advisable to call to your attention Clause 13 in your contract, which reads as follows:

'To refrain hereafter from wholesaling to boys or dealers (and from attempt-

ing to influence any Curtis agent to sell) any periodicals other than those published by The Curtis Publishing Company, and to refrain from furnishing any other publisher or his agent with the names and addresses of any Curtis agents, without first obtaining the approval of the Publishers.'

Should you be requested by anyone other than a representative of this Company to give him a copy of your Curtis sales report and should you grant such a request, you will of course understand that you may compel us to enforce Clause 19 of your contract by which we are instructed to retain your cash security should you violate your agreement with us.

It is not the intention of this letter to intimate that you have violated your agreement in this way. This letter is being mailed to all our District Agents alike. Certain information, received from reliable sources, causes us to so write you for your own protection.

Very truly yours,

THE CURTIS PUBLISHING COMPANY.

Wm. J. de Grouchy,

*Assistant Manager Sales Division.*

WJdeG-CL"

By MR. DALY:

Q. Will you look at a letter dated March 21, 1917, written by Mr. Douglas to you?

A. Yes, sir. I received this one. This was among one of the first that we received along that line when he was protesting against us continuing to wholesale.

Q. Will you look at this letter dated December 13, 1917 (handing paper to the witness)? Did you receive that letter?

A. Yes, sir; special delivery.

MR. DALY: We offer this in evidence.

EXAMINER MOORE: The letter is received without objection.

(Which said letter was received and marked "Commission's Exhibit No. 77, the same being in words and figures as follows, to wit):

COMMISSION'S EXHIBIT No. 77.

"THE CURTIS PUBLISHING COMPANY
Independence Square
Philadelphia
*The Ladies' Home Journal*
*The Saturday Evening Post*
*The Country Gentleman*

M. E. Douglas,
Manager of Sales Division.

December 13, 1917.

Mr. L. R. Killpatrick,
15 Arcade Building,
Fort Wayne, Indiana.

Dear Sir:

In accordance with Article 19 of the District Agency Agreement between The Curtis Publishing Company and yourself, we beg to notify you that said District Agency Agreement and your agency thereunder will be terminated, without further notice, upon the expiration of thirty days from the receipt by you of this notice, and that upon such termination we will return to you any balance of the cash security remaining, with interest.

Very truly yours,
THE CURTIS PUBLISHING COMPANY.
M. E. Douglas, (Signed)
*Manager Sales Division.*

MED BHL"

By MR. DALY:

Q. Now, you were interviewed, as you stated, by representatives of the Curtis?

A. Yes, sir.

Q. With reference to this contract?

A. Yes, sir.

Q. What gentlemen were they that saw you about it?

A. Mr. Nutter or—— Yes, Mr. Nutter called me up from Chicago, or it sounded like Mr. Nutter's voice. He said he was a Curtis representative. It was along the latter part of March.

Q. Of this year?

A. Latter part of March of 1917.

Q. 1917?

A. Yes.

MR. WELCH: Is this a call from Chicago, now?

MR. DALY: Yes.

THE WITNESS: This was a call from Chicago.

A. He first asked me not to attend a meeting—he asked me if I was going to attend a meeting, and advised me not to, at the Pictorial—or, rather, a news dealers' meeting. I don't know who called the meeting, but I rather think it was——

Q. Well, if you don't know——

A. A representative of the "Pictorial Review"—of news dealers in Chicago, and he asked me if I was coming. I told him I didn't know. And at that time he tried to get me to——

MR. WELCH: Now, I object to that.

MR. DALY: Why?

MR. WELCH: I object to a conclusion of the witness as to what he tried to get him to do. If he can state the conversation, why, let him state.

By Mr. Daly:

Q. Well, what did he say to you, Killpatrick?

A. He advised me not to go.

Q. Well, what did he say to you?

A. He also asked me to hold off handling "Pictorial Review" for a couple or three months, if I would. That is, to not accept the contract—for at least that long. I had told him before that I had already accepted a direct contract, that is a direct contract with the publisher, but he thought that possibly I could break that and would hold it off, say for a couple of months. And a few days afterwards Mr. Holl came to——

Q. Well, Holl is another representative of the Curtis Company?

A. Yes, sir. To Fort Wayne. And he wanted a private interview with me regarding the handling of "Pictorial Review" and other magazines. He made an appointment at seven o'clock in my office, in the evening.

Q. When was this?

A. This was, if I remember correctly, it was the 2nd of April, or near about that time.

Q. Last year?

A. 1917. He made an appointment at seven o'clock in the evening, and he was there until about ten-thirty arguing the thing pro and con. I told him I didn't see why, in view of the fact that I had explained to Mr. Reynolds before I signed the contract that I was wholesaling to dealers over the city all publications, etc., including the "Pictorial Review," that I should throw them out, and that I would not throw them out. I refused to throw out "Pictorial Review." Then he threatened me. He said, "Mr. Douglas won't stand for——"

Mr. Welch: Now, I object to the use of the language "he threatened me." I want him to state.

By Mr. Daly:

Q. Just state what he said.

Mr. Welch: Strike that out.

A. He says, "Mr. Douglas won't stand for your handling 'Pictorial Review' and the Curtis." I says, "Very well, I am going to continue on wholesaling 'Pictorial Review,' and the others, all other publications." So then it went along, and he asked me how much I was making off the "Pictorial Review." I told him as near as I could. He says, "I can give you a salary that will offset that, or reimburse you for your losses if you will throw out 'Pictorial Review'." I says, "I will not do that. Not for ten times that amount." So that ended our session.

Q. Now, you have been getting Curtis publications, however, until recently, haven't you?

A. Yes, sir. They notified me about that on the thirteenth day of December, that they was going to sever business relations.

Q. That is the notice that went in the record?

A. Yes, sir.

Q. That I showed you?

A. Yes, sir.

Q. Did they sever relations with you?

A. Well, I received copies last week. I don't know what will come this week. I have not—I left home on Monday. I don't know who they are going to come to this week.

Q. Now, how many—what wholesalers besides yourself are in your city?

A. There is none that I know of. There is one other party that gets a few copies from the American News Company, and he has some commission stands. I think he has two.

Q. How many retailers do you serve, Mr. Killpatrick?

A. About eighty.

Q. Are they all of the retailers in the city?

A. Well, I serve all the retailers but two.

Q. Who serves them?

A. They get their supplies through the American News Company. I discontinued their supply on account of their credit. That is the reason. I could have their business, but——

Q. Now, if you will, will you tell the Examiner how many of these retailers are served by the American News Company, the whole number, if there are more than two?

A. Well, there is only two of them that they supply with all the publications that they handle. There is five others that get a part of their supplies from the American News Company, and all the rest of them, I supply them with all publications, including publications that is controlled by the American News Company—that is such things, various publications, that is controlled by them, and we have got to get our supplies indirectly; that is, we have got to get them through the American News Company—some publishers that we have a special arrangement with the publishers themselves.

Q. Now, how does the American News Company deliver its magazines to its customers, these dealers?

A. By express and mail, and in some instances, interurban freight.

Q. What promotion service have they, if any?

A. They have none.

Mr. Welch: Now, I object to that question, and I move to strike out the answer on the ground the witness is not shown to have any knowledge whatsoever as to their promotion service and whether they have or not any promotion service.

Mr. Daly: Well, strike it out. I will ask him a little different.

By Mr. Daly:

Q. What do you do towards seeing that your magazines are properly distributed by those retailers?

A. I have three men besides myself, and two auto trucks, and we are out working with the trade or dealers all the time—that is——

Q. Do you come in personal touch with those dealers?

A. Oh, yes; I, with a few instances, I see everyone of those dealers every week myself.

Q. Now, what does the American News Company do in that particular?

Mr. Welch: Does he know?

By Mr. Daly:

Q. If you know.

A. Well, occasionally there is a representative of the American News Company comes through there. He usually drops over to see me. And he may call on some of the book stores in the interest of some of the books that they are selling. But he never does anything so far as the magazine promotion, to any great extent. Of course, while he is—their main object is to sell books, you know—that is, novels and things like that, in Fort Wayne, because they have got two or three book stores there and some pretty good accounts, I guess.

Q. How frequently does he come? That is to say, how frequently have you seen him there?

A. Oh, I should say he comes in there three times a year, three or four times a year.

Mr. Welch: I object to this testimony by this witness.

Mr. Daly: We don't care anything about it.

Mr. Welch: He doesn't know anything about it, and he is simply stating his impressions.

Mr. Daly: He says he knows about it.

MR. WELCH: I move to strike out his testimony of the operations of the American News Company's representatives.

MR. DALY: Well, I would like to have that stricken out, that last testimony with reference to——

Read that last question I asked.

(The record was read.)

MR. DALY: I want that stricken out also. Now, I contend that the other is perfectly proper and should be admitted. Do you object to that? (Addressing opposing counsel.)

MR. WELCH: I do. I object to the whole line of testimony on the operations of the American News Company on the ground that it is incompetent, and the witness has not shown that he had any direct knowledge, or any means of direct knowledge that the American News Company's representatives——

By MR. DALY:

Q. Have you an account with the American News Company, Mr. Killpatrick?

A. I have with their branch, yes; get supplies every week.

MR. WELCH: I object further on the ground that he is testifying now as to the relations between the American News Company and retailers, whereas he has no relations himself as a retailer with the American News Company.

MR. DALY: Well, I contend that that has no bearing upon the case, whether he has any relations with them or not. But if he knows about the distribution of magazines in this town, which he testifies that he does, he has a right to tell this Commission as to how these magazines are distributed, the different agencies, and what they do about them.

EXAMINER MOORE: The objection is overruled.

MR. WELCH: I take an exception.

By MR. DALY:

Q. Now, have you an organization of boys, Mr. Killpatrick?

A. Yes, sir.

Q. Will you state what that consists of?

A. Well——

Q. How many boys there are and how you handle it.

A. We have about sixty boys that sell anything that they have orders for, whether it is "Cosmopolitan" or "Hearst's" or "Posts" or "Ladies' Home Journals." I do not think we have any—possibly one—two exclusive "Curtis boys" that don't sell anything—and, in fact, they pick up orders for other magazines and buy them in my place.

Q. What do you mean by an exclusive Curtis boy?

A. Well, that does not handle—sell anything else but Curtis publications. There is possibly two, and occasionally—and they are not regular, that is, they don't take orders or sell regularly other publications, but if one of the customers, but if one of the customers wants a "Cosmopolitan" or a "Hearst," or any other magazine, why, they come to my place and I sell it to them at wholesale, and they go out and make a profit on it.

Q. When you took on this contract, did the Curtis Company turn any boys over to you?

A. Well, I did not consider that Curtis was turning over any boys, no. I considered that Bowen and Miller was.

MR. WELCH: I object.

By MR. DALY:

Q. What did they do about turning over boys to you?

A. Well, they were boys that were selling "Posts," and newspapers, etc., when I bought the agency.

Q. And what have they done since?

A. They have done some promotion work. They have had men come in there, same as the other publishers, and gone out and call on boys at schools, tried to get new boys.

Q. Advertised?

A. Advertised, given free copies away.

Q. Have you shown the Curtis boys anything and given them instructions as to how to handle magazines?

A. Not any more than I have instructed them——

MR. WELCH: I object to that.

MR. DALY: Just a minute.

MR. WELCH: I move to strike that out.

EXAMINER MOORE: It will be stricken out.

By MR. DALY:

Q. I have asked you if you did anything towards the training of these people——

MR. DALY: Strike that out.

By MR. DALY:

Q. What have you done?

A. Yes, I have coached the boys along, that is, any time that I would receive any prize offer from the Curtis Publishing Company, why, I would read it to them and explain it to them. In fact, I would tack it up in my office or in the back room where the boys get their copies. It was there for them to read, as well as me explain it.

Q. What remuneration have you had for your service in that direction, if any?

A. No, sir. We pay a stipulated price for our copies, and we are permitted to sell them at an advanced price which makes a commission similar to the way we handle our business in general.

MR. DALY: Just read that answer.

(The answer was read.)

By MR. DALY:

Q. What training did you give the other boys, the boys that you say are not Curtis boys, if any?

A. The same training that we give Curtis boys, the so-called Curtis boys.

Q. Teach them salesmanship, do you?

A. No, sir.

MR. WELCH: Don't lead the witness, please, Mr. Daly.

THE WITNESS: We are in business to——

MR. WELCH: Now, I object to any statements —voluntary statements by the witness.

MR. DALY: Just strike out that last suggestion of mine.

By MR. DALY:

Q. Did I ask you how large a place this city is?

A. I don't believe you did.

MR. DALY: That is all.

CROSS-EXAMINATION.

By MR. WELCH:

Q. Now, at the time you had your talk with Mr. Reynolds, the first talk with Mr. Reynolds that you have testified to, you told him that you were wholesaling other publications?

A. Yes, sir.

Q. You say?

A. Yes, sir.

Q. And amongst those——

MR. WELCH: Just read what I said.

(The record was read.)

By MR. WELCH:

Q. And among those you say you discussed the "Pictorial Review"?

A. Yes, and "Woman's Home Companion."

Q. Where were you getting——

A. Because they are in a class with——

Q. Now, never mind. I didn't ask you that. Just answer the question. Where were you getting your supply of the "Pictorial Review" from—and other magazines?

A. At that time I was getting them through the American News Company.

Q. At that time the "Pictorial Review" was distributing through the American News Company to you, and had no project, so far as you knew, of distributing through any wholesalers?

A. Well, no, not at that time.

Q. That is what I am asking you about, at that time.

A. Yes, that is so.

Q. So that, in your conversation with Mr. Reynolds, inasmuch as you were not being supplied direct from the publisher, there really wasn't any occasion to mention "Pictorial Review," was there?

A. Why, yes, there was, because for the simple reason there was a clause in that contract.

Q. And you understood that, so far as the arrangement as it then existed between you, and your method —with respect to your method of distributing "Pictorial Review," that there would be no objection made to it?

A. Certainly, and I brought it up for that purpose.

Q. Yes?

A. That there would be no future objection to me wholesaling any publication.

Q. And that was—at that time you were receiving your "Pictorial Review" from the American News Company exclusively?

A. Yes, at that time I was.

Q. And, so long as you were receiving your "Pictorial Reviews" from the American News Company

exclusively, there never was any objection made, was there?

A. Not that I remember of, no.

Q. So that it was only when you changed your entire arrangement as to the source of supply and your method of handling "Pictorial Review," an arrangement that was different from the one that existed when you talked with Reynolds, that any objection was ever made, isn't that a fact?

A. Yes. I think you are right. I don't remember of anything coming up because——

Q. Well, you can answer that?

A. Yes. I don't remember.

Q. That is a fact?

A. I don't remember of any until last—1917, spring of 1917.

Q. Now, in referring to the letter from the Curtis Publishing Company dated March 30, 1917, addressed to you, the following is stated:

> "Our inquiry concerning Pictorial Review resulted from a suggestion to us to the effect that you had made a new arrangement for the wholesaling of that publication, an arrangement unlike that you had in effect with it at the time of your contract with us."

That is a fact, isn't it, that you had a different arrangement?

A. Yes.

Q. In March, 1917?

A. Yes, sir; I had made a different arrangement.

Q. From the arrangement you had prior to that?

A. Yes. I was getting my supplies from a different channel.

Q. From a different channel. The letter continues:

> "The two arrangements mentioned to us is, as we understand it, one by which you receive your

supplies from a source other than that from which you obtained the copies prior to the date of your agreement with us."

That is correct, too, is it?

A. It is.

Q. The letter then continues:

"We will, of course, stand absolutely by any arrangement in effect before your contract with us was made."

And during—with respect to that, during the time that the original arrangements that you had with respect to "Pictorial Review," receiving them from the American News Company, the Curtis Publishing Company did stand by the arrangement that you say Reynolds made with you; isn't that a fact?

A. Well——

Q. Now, that is perfectly clear. Can't you answer that yes or no?

A. I don't see why—what difference it makes what channel I got them, my——

Q. Now, I didn't ask that.

MR. WELCH: I move to strike that answer out.

By MR. WELCH:

Q. Just answer the question yes or no.

MR. DALY: Just answer the question.

A. Yes. I am getting my supplies through a different channel.

By MR. WELCH:

Q. Well, you answer the question yes, do you not?

A. Yes, I am answering the question yes, that I am getting my supplies through a different channel.

Q. And that is a different arrangement on your part?

A. Yes, sir.

Q. What is the answer?

A. Yes, sir.

Q. You never made any reply to that letter of Mr. Douglas of March 30, 1917, did you?

A. I don't remember whether I did or not.

Q. Well, you haven't any record of having sent him any?

A. No, I have no record, that is, I haven't any with me. Now, it may have been misplaced. I am not able to dig it up.

MR. DALY: What was the question?

MR. WELCH: That he never made an answer to the letter of March 30th from Mr. Douglas, he says, so far as he knows.

A. Let us see what—the letter that you just read?

Q. Yes.

A. There is a letter in evidence here—I don't—that I answered them, yes.

Q. Now, you look over the correspondence and answer the question as to whether you ever answered Mr. Douglas' letter of March 30, 1917.

(The witness examined the letters heretofore referred to.)

A. I think this is an answer to both of these letters on the reverse side of this (indicating).

Q. Well, do you mean to say the letter written March 26 is an answer to a letter of March 30? Just look at the dates (handing papers to witness).

A. I did not answer the letter promptly for the simple reason—that is, there are several telegrams here. They wired me on two occasions for a reply.

MR. WELCH: I move to strike that answer out.

By MR. WELCH:

Q. I asked you the question, did you ever write an answer to Mr. Douglas in response to his letter of March 30, 1917?

A. To my recollection, this is the only answer that I wrote in reference to this matter (indicating).

Q. I ask you again—and ask the Examiner to instruct you to answer—did you ever give an answer, write an answer to the letter written by Mr. Douglas to you dated March 30, 1917?

A. I don't remember whether I did or not.

Q. I asked the Examiner to instruct you to answer yes or no.

A. I state——

EXAMINER MOORE: He says he does not remember.

MR. WELCH: He has not said that yet.

EXAMINER MOORE: Yes, he did.

MR. DALY: Yes, he did.

A. I don't remember whether I did or not.

By MR. WELCH:

Q. You have no record of any answer?

A. Not with me, no, sir.

Q. Have you any record at home?

A. I may have. It might have been misplaced. I got all that I could out of my files, but since that time we have cleaned our files the first of the year.

Q. Didn't you bring all——

MR. DALY: Now, then, wait a minute.

By MR. WELCH:

Q. All the records that you have with relation to this matter, and correspondence, with Curtis Publishing Company you brought to this court room today?

A. All that I could find.

Q. Yes, sir.

A. Yes, sir.

MR. DALY: Now, I want to say this here, that this man has testified—this man is being questioned about a letter that he wrote to the Curtis Publishing Company And we have asked the

Curtis Publishing Company to produce the correspondence.

MR. WELCH: I am not asking about a letter he wrote. I am asking about a letter he did not write, Mr. Daly. I am asking if he ever replied to the letter, because he never did.

MR. DALY: Well, he says he does not remember.

MR. SPIESS: Why do you want to ask him if you know he never did?

MR. WELCH: Because I wanted to prove by him that he never did.

MR. SPIESS: You knew that.

MR. WELCH: I know, but I am not the witness, and I would rather have it from the witness than have the statement on the record by myself.

By MR. WELCH:

Q. Now, you said that Mr. Nutter called you up on the telephone and had some conversation with you about not going to Chicago?

A. Yes, sir.

Q. And he asked you——

A. It sounded like Mr. Nutter's voice.

Q. Yes.

A. He said he was a Curtis representative. I think I know his voice well enough over the 'phone to know it was Mr. Nutter.

Q. And you testified that he said something to you about not handling "Pictorial Review"?

A. Yes, sir.

Q. You also said he said not to make a direct contract with the publisher; that was what he referred to, was it?

A. I presume it was; yes, sir.

Q. Well, didn't you testify that he——

A. He wanted me to hold off and not handle "Pictorial Review."

Q. Didn't you say on your direct examination that he wanted you not to accept a direct contract with the publisher, weren't those your very words?

A. That is what he meant, and I presume that is what I said. That is what he meant, anyway.

Q. Yes?

A. Because he knew that I was handling, wholesaling, "Pictorial Review."

Q. Obtained from the American News Company?

A. Yes, sir.

Q. And his conversation was directed to handling "Pictorial Review" under a direct contract with the publisher?

A. Yes.

Q. Yes, that is what he meant, that is what he said?

A. I don't know as he said anything about "direct." He asked me to hold off handling "Pictorial Review."

Q. Well, you used that language.

A. And I presume he meant to refer to a direct contract.

Q. Yes. What was this reimbursement that Mr. —you say Mr. Holl later told you that the Curtis Company could give you if you stopped handling "Pictorial Review." What was the word he used, "reimbursement" or "a salary"; or what was it?

A. A reimbursement in the form of a salary, yes.

Q. Going to pay you a salary?

A. Yes.

Q. Did he say how much?

A. Yes, to reimburse me for my losses.

Q. Did he say how much?

A. No, nothing was said. He asked me what I was making off the "Pictorial Review."

Q. Did you tell him?

A. Approximately, yes.

Q. Was he going to pay you a salary to make up for the amount of your losses?

A. He said that he could arrange for a salary that would offset that.

Q. When was that conversation?

A. About—near about April 2, 1917.

Q. Where was it?

A. In my office in Fort Wayne.

Q. You know Mr. Holl's first name?

A. It is A. J. I have some correspondence.

Q. Is this the gentleman here (indicating Mr. Holl)?

A. Yes.

MR. WELCH (addressing Mr. Holl): What are your initials?

MR. HOLL: A. J.

By MR. WELCH:

Q. So that it was Mr. A. J. Holl that you say you had that conversation with?

A. Yes. I received—after that I received a letter from him from Chicago. He sent me——

Q. Now, just a minute. I asked you whether it was Mr. A. J. Holl that you had that conversation with that you testified about?

A. Yes, sir.

Q. Now, you said that of the eighty retailers in Fort Wayne you serve all but two.

A. Yes, there is two that I don't serve on anything at all.

Q. That only two are served by the American News Company for all their publications, is that correct?

A. That is with all their publications; they don't receive any at all from me.

Q. And some of them get a part from the American News Company, and a few supply all the rest of the retailers; how many do you supply?

A. There is two of them—I supply approximately seventy-six or seventy-seven—well, I supply seventy-four with all publications that they handle. I supply seventy-seven or seventy-eight with all or a part, and there is two that I don't supply with anything at all.

Q. Well, you get—you yourself get a great many of the publications that you supply these retailers with, from the American News Company, don't you?

A. Yes, yes.

Q. A great majority of the publications you yourself get from the American News Company, isn't that a fact?

A. No, the largest sellers, why, we are getting direct.

Q. But a great many of them that you are supplying to the retailers?

A. Yes, we get——

Q. You get through the American News Company?

A. Through the American News Company; yes, sir.

Q. That is, you get them wholesale?

A. Yes, sir. We get them and resell them. That is, we get them through the American News Company and resell them.

Q. Now, at the time that Curtis—at the time that you took up the agency for the Curtis publications, you said boys that were selling "Posts" were turned over to you by the Curtis Publishing Company; isn't that a fact?

A. Yes, they have a sales—or a boys' report, with the number of boys.

Q. Didn't you testify——

A. I could not say how many was exclusive boys; no. I know that they turned over boys, a list of boys, that were selling their publications.

Q. You remember how many there were?

A. I don't remember.

Q. How many would you say, at a rough guess?

A. Well, we usually have about thirty-five or forty boys there that sell Curtis publications, and anything that they can.

Q. Thirty-five or forty boys?

A. Yes.

Q. That sell Curtis publications exclusively?

A. Yes.

MR. DALY: He did not say that.

THE WITNESS: There are some boys that don't sell anything but Curtis.

MR. DALY: He said anything that they could. You say "exclusive." I object to that kind of testimony.

MR. WELCH: Well, if you stop your witness talking I will finish my question.

By MR. WELCH:

Q. Thirty-five or forty of these boys, you say, sell Curtis publications?

A. Yes, sir.

Q. And they sell those publications exclusively, don't they?

A. No, sir.

Q. How many sell the Curtis publications exclusively?

A. There is two.

Q. Only two?

A. Two, possibly—well, two. Two is all, because the others will sell any magazine they get an order for, and come in my place and get them. But there is two of them that I believe is absolutely exclusive Curtis boys, because I don't remember of them ever selling anything else.

Q. Well, these thirty-five or forty boys that sell any other magazine, you say they get an order for,

they don't go out with other magazines and try to sell them, though, do they?

A. A great many of them supply orders from month to month when they come in, and they keep in touch.

Q. Now, I asked you a very simple question and you won't answer it. Do they go out and attempt to sell other publications, or do they only sell when they have orders?

A. They go out and take orders for them.

Q. Go out and take orders for them?

A. Yes, sir.

Q. Did you go around to the schools and see the teachers of those boys, any of those boys?

A. I have taken the Curtis representative around.

Q. That was with respect to the Curtis boys?

A. Yes, sir; it was in the interest of the Curtis Publishing Company that I was taking him around.

Q. Did that apply to the thirty-five or forty boys, or only to the two boys that were selling exclusively?

A. Well, at that time he was doing some promotion work, trying to get new boys, to sell Curtis. I never—I don't remember of going to but one boy's house with him—with the Curtis representative.

Q. Did he get any new boys?

A. Just a few they get from time to time.

Q. How many did he get?

A. Well, on one occasion I believe he got five. They did not stick very long. They sold a few weeks and then quit.

Q. How many boys have you been reporting right along to the Curtis Publishing Company in your weekly reports to them?

A. In the neighborhood of thirty-five, something like that.

MR. WELCH: That is all.

MR. DALY: Just one question or two, Mr. Killpatrick.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. I am not clear from your testimony about this other arrangement that Mr.—the learned counsel on the other side has brought out. What other arrangement was it that you actually made with Mr. Killpatrick? (Sic) He questioned you about another arrangement.

A. That was in reference to "Pictorial"?

Q. Yes, in reference to what he was talking about —I think it was "Pictorial."

A. Yes. Prior to the time, and up until last May, we had to get our "Pictorial" through the American News Company, and resell it. Last March, February or March, I don't remember just when, they decided to supply independent dealers, wholesalers, direct, and anyhow, when that—they notified me that we could get our copies direct, why, I accepted them and drew my supplies through—or direct from the publisher, and cut off my supply that I was drawing indirectly through the American News Company, which, of course is better for me. That was the reason I made that change.

MR. DALY: That is all.

MR. WELCH: That is all.

(Witness excused.)

---

CHARLES LEVY, called as a witness on behalf of the Commission, having been first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Give your name and address, Mr. Levy.

A. Charles Levy; 27 North Wells Street, Chicago.

Q. What is your business?

A. Wholesale newspaper and magazine distributor.

Q. And where do you operate?

A. City of Chicago.

Q. How long have you been in this business in the City of Chicago?

A. Oh, for twenty-five years. Since I was a boy.

Q. And what have you handled all during that period?

A. Well, I handled newspapers, and out-of-town newspapers and magazines.

Q. When did you begin to handle the magazines of the Curtis Publishing Company?

A. I think in—I handled the Curtis magazines as far back as twenty years ago, and then I was off for about ten. I think I went back the second time in 1909 or 1908.

Q. Did you have a contract with them when you went back the second time?

A. I think I did, or an agreement of some kind.

Q. And what were you handling in the way of magazines, when you went back the second time?

A. Nothing but the Curtis.

Q. Now, how long did you continue under that contract, your second time contract, if you remember; about how long?

A. I don't remember. I always worked under an agreement of some kind.

Q. Are you under contract with them now?

A. I am.

Q. How long have you been under this contract?

A. I think it was 1916, I think I signed that.

Q. Is that the contract that contains a——

MR. WELCH: Mr. Daly, I wish you would not characterize that clause.

MR. DALY: Well, I can call it——

MR. WELCH: Can't you just call his attention to it and read it to him?

MR. DALY: Yes, where is that?

MR. MILBURN: Clause 13.

By MR. DALY:

Q. Are you familiar with clause 13?

A. I am.

Q. Of the contract?

A. I am. It is in that other one (indicating).

Q. Yes, that you have with the Curtis Publishing Company?

A. Yes, sir.

Q. Now, do you handle "Every Week"?

A. I do.

Q. How long have you handled that?

A. I don't know whether—either two or three years.

Q. Do you handle "The Literary Digest"?

A. I do.

Q. "Collier's Weekly"?

A. Yes, sir.

Q. When you took on these magazines, did you or not get permission from the Curtis Company under this contract?

A. I did, since this Clause 13 was——

Q. How did you get that permission; did you write about it or not?

A. Sometimes I got it verbally and sometimes I got it in writing.

Q. But in those cases I mentioned you did get permission?

A. I did.

Q. Do you handle the "Pictorial Review"?

A. No.

Q. Were you or not interviewed by anybody from the "Pictorial Review" Company asking you to take on that publication?

A. Only by wire.

Q. By wire? By whom was this wire sent?

A. By Mr. Mackinnon.

Q. Mr. Mackinnon; do you know who he is?

A. I have met the gentleman.

Q. Do you know what he represents?

A. "Pictorial Review."

Q. Will you look at this telegram dated February, 1917 (handing paper to witness)?

A. Yes.

Q. That was received by you, was it?

A. Yes.

MR. DALY: We offer this telegram.

EXAMINER MOORE: The telegram is received without objection.

(The telegram was received and marked "Commission's Exhibit No. 78," the same being in words and figures as follows, to wit):

COMMISSION'S EXHIBIT No. 78.

(On Western Union Telegram form.)

"Received at Jackson Boulevard and LaSalle St., Chicago.

1917 Feb. 20 P M 2 16

S292NY 18

SI New York NY 305P 20

Chas Levy

27 North 5 Ave Chicago Ill

Would your Curtis contract prevent your wholesailing Pictorial Review in Chicago Sale now twelve thousand monthly wire answer

B A MACKINNON."

(Stamped) "1147 1917 Feb 20 PM 2 31."

By MR. DALY:

Q. Did you reply to that, or not?

A. I replied to one of them.

Q. Will you look at this telegram (handing paper to witness)?

A. Yes.

Q. Is that the reply that you sent?

A. That is the reply.

MR. DALY: That is offered, Mr. Examiner.

EXAMINER MOORE: The reply is admitted without objection.

(The telegram was received and marked "Commission's Exhibit No. 79," the same being in words and figures as follows, to wit):

COMMISSION'S EXHIBIT No. 79.

(On Western Union Telegram form.)

"Chicago, Ill. February 21, 1917.

B. A. MacKinnon,
Pictorial Review
New York, N. Y.

Have taken your matter up with Curtis Publishing Company. Will advise you later. Under my present contract I am obliged to take this matter up with them.

CHAS. LEVY.

Collect."

By MR. DALY:

Q. Will you look at this telegram dated February 3, 1917 (handing exhibit to witness)?

A. Yes.

Q. From Mr. Mackinnon——

MR. DALY: We offer this telegram.

EXAMINER MOORE: The telegram is received without objection.

(The telegram was received and marked "Commission's Exhibit No. 80," the same being in words and figures as follows, to wit):

COMMISSION'S EXHIBIT No. 80.

(On Western Union Telegram form.)

"Received at Jackson Boulevard and LaSalle St., Chicago.

V
B346NY 14
SI New York NY 320P 23
Chas Levy
27 North Fifth Ave Chicago Ill
Must have your decision definitely one way or another today or tomorrow by wire
B A MACKINNON."

(Exhibit No. 80 bears the following rubber stamps: "1128"; "B Office"; "1917 Feb 23 PM 2 39"; "1917 Feb 23 P M 312".)

By MR. DALY:

Q. Will you look at this telegram? Well, is that a telegram sent by your (handing telegram to witness)

A. By my office.

Q. By your office?

A. Yes, sir.

MR. DALY: We offer this telegram.

EXAMINER MOORE: The telegram is received without objection.

(The telegram was received and marked "Commission's Exhibit No. 81," the same being in words and figures as follows, to wit):

COMMISSION'S EXHIBIT No. 81.

(On Western Union Telegram form.)

"Chicago, Ill. February 23, 1917.

Mr. B. A. MacKinnon,
Pictorial Review
New York, N. Y.

Mr. Levy is out of town we will get in touch with him by wire.

CHAS. LEVY CIRCULATING CO.

Collect."

By Mr. Daly:

Q. Now, the last telegram says you were out of town—just cut that out.

Now, after Mr. Mackinnon asked you to take on his publications, what did you do about this provision of Section 13 in the contract—Clause 13 in your contract?

A. I believe I met Mr. Douglas—I don't know whether in New York or in Philadelphia.

Q. You went to Philadelphia, did you?

A. Yes, either one of those places.

Q. And saw Mr. Douglas. Well, what did you say to Mr. Douglas about that contract?

A. I told him I had a proposition made to me from "Pictorial Review."

Q. And what did he say to you?

A. We talked it over at length, and finally he told me to use my own judgment.

Q. And did you use your own judgment, or not?

A. Well, I thought I did.

Q. Yes. Did you take it on?

A. No.

Q. From the conversations you had with Mr. Douglas, what was your impression about that contract in the event that you took on the——

A. Well, that would be hard to say what the outcome would be.

Q. Well, what impression did you get from Mr. Douglas?

A. Well——

Mr. Welch: Ask him what Mr. Douglas said.

By Mr. Daly:

Q. And what did Mr. Douglas say?

A. Well, he did not say—he talked about it and

then told me that I could go out and use my own judgment, and I could form it the best way I seen fit.

Q. Well, why didn't you take it on?

A. Well, the Railroad News Company had a service in here, and it was a question in my mind whether I would get it after I made application for it.

Q. But Mr. Mackinnon had offered it to you, hadn't he?

A. He offered it only by wire.

Q. Now, is that the only reason that you can give why you did not take it on?

A. Well, no, I did not——

Q. Well, now, give the whole reason.

A. Well, I didn't think the Curtis Publishing Company wanted me to handle it.

Q. Well, then, you got that impression from Mr. Douglas, didn't you?

A. Well, half, I did. I had formed—Mr. Douglas did not tell me outright not to take it on.

Q. Did you assure Mr. Douglas at that time that you would not take it on?

A. No.

Q. You did not?

A. No.

Q. Will you look at this letter, dated March 25, 1915, is that your letter (handing paper to the witness)?

A. That is my letter.

Q. To Mr. Douglas?

A. Yes, sir, but I cannot find the original.

MR. WELCH: What is this, a letter to him?

THE WITNESS: No, letter——

MR. DALY: A letter from him to Mr. Douglas.

MR. WELCH: We haven't got the letters as far back as that here, but if Mr. Levy can state what this letter referred to——

THE WITNESS: I cannot. I tried to jar my memory, and searched, but can't find out what the contents of the original letter—or the answer to the original letter is.

MR. WELCH: This seems rather meaningless.

MR. DALY: Withdraw that for the present. We will try to look it up.

MR. WELCH: We haven't any objection to it, except we don't know what it is. That is all.

MR. DALY: I would like to find the letter too. I am very anxious to find it.

By MR. DALY:

Q. Will you look at this letter dated March 17, 1917, written by you to the Curtis Company? You wrote that, didn't you (handing paper to witness)?

A. Yes.

Q. And you received this reply (indicating)?

A. Have I got a copy of this (indicating)?

Q. I don't think so.

A. I don't know. My files are all balled up.

Q. This is from their files, the Curtis files.

A. That jars it a little.

Q. Yes. You received that?

A. Yes, sir.

MR. DALY: We offer this.

MR. WELCH: What is it?

MR. DALY: "Literary Digest."

MR. WELCH: No objection to that.

MR. DALY: Mr. Examiner, we offer these letters in evidence.

EXAMINER MOORE: The letters are received without objection.

(The letter was received and marked "Commission's Exhibit No. 82," the same being in words and figures as follows, to wit):

COMMISSION'S EXHIBIT No. 82.

"March 21st, 1917.

Mr. Charles Levy,
27 North Fifth Avenue,
Chicago, Illinois.

Dear Mr. Levy:

You ask for our approval of your undertaking to wholesale The Literary Digest.

We have no present objections to your wholesaling this publication to news dealers only; that is, provided you refrain from supplying copies to boys.

And, of course, if you were to furnish to these publishers or their representatives, any list of names of any retailers whom you now supply with our publications, the above approval would have to be withdrawn.

Moreover, we particularly advise that you do not make with these publishers any arrangement from which you could not withdraw on thirty days' notice; for if your arrangements with them should weaken your service with our publications or result in interference with our plans or policies, we should withdraw the conditional approval above given you.

While the idea of your divorcing your efforts to the above extent from our publications arouses no enthusiasm, nevertheless it looks as if you can, if you will, handle it in such a way as not to result to our disadvantage.

As before stated, our disposition is to concede to your individual interest everything we can without sacrificing mutual interests.

Very truly yours,
THE CURTIS PUBLISHING COMPANY.
*Branch Promotive Section.*

Dictated by
MED GF"

(A letter was received and marked "Commission's Exhibit No. 83," the same being in words and figures as follows, to wit):

COMMISSION'S EXHIBIT No. 83.

(On letterhead Chas. Levy Circulating Company.)

"March 17th, 1917.

M. E. Douglas,
Manager Sales Division,
The Curtis Publishing Company,
Philadelphia, Pa.

Dear Myron:

For your information, beg to advise that I have taken over the distribution of The Literary Digest in the City of Chicago, under conditions that will not permit any conflict with your organization in any way.

I might add that the working arrangement is a verbal one, dictated by me and accepted by Literary Digest, without further obligations or commitments on my part.

Trusting that this is satisfactory and that it meets with your approval, and with best regards, I am,

Yours sincerely,

(Signed) CHAS. LEVY."

(Said exhibit bears the following rubber stamps):

| | | |
|---|---|---|
| "Answered Mar 20 1917 M. E. D." | "Answered Mar 19 1917 M. E. D." | "Received Mar 19 1917 F. M. B." |

By MR. DALY:

Q. What equipment have you for the handling of magazines in your territory?

A. Well, I have automobiles and newspaper wagons.

Q. About how many of them have you?

A. About seventy-one wagons, and I have eleven automobiles.

Q. And what part of the City of Chicago do you cover with that?

A. In certain numbers I cover the entire city—on some magazines. On other magazines I only cover part of the city.

Q. And how many retailers——

A. And the rest of the equipment is used on newspaper work.

Q. How many retailers—did you say, Mr. Levy?

A. You didn't ask that question.

Q. How many retailers do you serve?

A. Retailers and boys, I would say about eight or nine hundred.

Q. How many retailers?

A. That is a dealer?

Q. Yes, how many dealers?

A. Between eight and nine hundred, including the boys.

Q. Well, how many not including the boys?

A. Well, about six hundred, a little over six hundred dealers.

Q. And about how many boys?

A. The rest of them boys.

Q. Now, as to your boys, Mr. Levy, how many of these are exclusive "Curtis boys"?

A. About thirty-five, thirty-four.

Q. And what do you mean by an exclusive boy?

A. That sells the Curtis Publishing Company publications.

Q. Only?

A. Only.

Q. Now, what do these other boys handle?

A. Daily papers, Chicago daily papers—street corners.

Q. Any magazines handled through boys?

A. No. These weeklies are.

Q. Weekly magazines?

A. Yes; they are sold on the street corners—"Collier's Weekly" and "Every Week" and "Saturday Post."

MR. WELCH: They are not handled by boys?

THE WITNESS: They are not, they are what they call newsboys, street corner boys.

MR. WELCH: Yes.

By MR. DALY:

Q. Sold on the corners, as I understand it, in Chicago?

A. Yes.

Q. On the stands?

A. On the corner newsstands.

MR. DALY (addressing opposing counsel): Did you find this letter?

MR. MILBURN: No, he said that was before. He didn't have that.

MR. DALY: It refers to "Every Week."

MR. MILBURN: "Every Week."

MR. DALY (addressing Mr. Douglas): Does this refer to "Every Week"?

MR. DOUGLAS: I think so.

By MR. DALY:

Q. Now, did you ever ask permission to handle "Every Week"?

A. Yes, sir.

Q. From the Curtis Company?

A. Yes, sir.

Q. You got that permission, did you?

A. I did.

Q. Will you look at this letter; that was a letter you wrote, wasn't it?

A. This is the one we were looking for.

Q. That is the one you were looking for——

MR. DALY: Now, are you willing to concede that is with reference to an "Every Week" transaction?

MR. DOUGLAS: I think it is.

MR. DALY: I offer that letter then.

EXAMINER MOORE: The letter is admitted without objection.

(The letter was received and marked "Commission's Exhibit No. 84," the same being in words and figures as follows, to wit):

COMMISSION'S EXHIBIT No. 84.

"March 25, 1915.

Mr. M. E. Douglas, Sales Manager,
The Curtis Publishing Co.,
Philadelphia, Pa.

My Dear Mr. Douglas:

Your letter of the 23rd inst., received, and contents very carefully noted.

Now, Mr. Douglas you know me long enough to know that I would not injure any of the Curtis Publishing Company's magazines, in promoting and selling same, but on the other hand I am doing everything in my power to promote and sell your publications.

I have had no intention of using the Curtis Post boys to sell this new weekly.

For your information, my contract with them is that I deliver and collect news dealers and elevated stations at a set salary per week. I refused point blank to have anything to do with corner stand sales, and finally talked them out of putting on street corner stands.

I want to impress upon your mind the little difference we had in the Chicago office a year ago is a thing of the past.

I gave you my word that I would do everything for the interest of the Curtis Publishing Co. in promoting and selling its magazines. I am glad to report to you to the best of my knowledge I have done my part in every sense. If there is any doubt in your mind that I have neglected your business here, I would like to hear from you and have you show me where I am weak. You can depend upon me that the Curtis Publishing Co. will have first call on me on any proposition they want to put over.

Hoping you will give this considerate attention, with best wishes, I remain

Yours very truly,

CL/MS."

(The above exhibit is a carbon copy.)

By MR. DALY:

Q. How many "Posts" do you handle?

A. Oh, I handle between sixteen and twenty thousand.

Q. How many "Ladies' Home Journals"?

A. I think the order is fifty-five hundred.

Q. How many "Every Week"?

A. Fourteen thousand.

Q. "Literary Digest"?

A. Fifty-one hundred, roughly.

MR. DALY: That is all.

CROSS-EXAMINATION.

By MR. WELCH:

Q. Mr. Levy, do you make regular reports to the Curtis Publishing Company with respect to the sales operations of these thirty-five "Curtis" boys that handle Curtis publications?

A. I do.

Q. Exclusively?

A. I do.

Q. You do. And are those reports made weekly?

A. Weekly.

Q. And what do they—briefly, what do they state, just in substance?

A. It is headed "By the Post Boys."

Q. Yes.

A. The number of copies they draw, the number of copies they sell—on "The Country Gentleman," "Post" and "The Journal."

MR. WELCH: That is all.

(Witness excused.)

---

ELWOOD C. FISCHER, called as a witness on behalf of the Commission, having been first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. SPIESS:

Q. Your full name?

A. Elwood C. Fischer.

Q. Where are you in business?

A. Sheboygan, Wisconsin.

Q. What kind of business are you in?

A. Wholesale and retail newspaper and magazine business.

Q. How long have you been in the wholesale business?

A. Since the first of February, 1914.

Q. Approximately four years?

A. Yes, sir.

Q. How long have you been under contract with the Curtis Company?

A. Well, our predecessor had the Curtis agency, and it was transferred to us. Of course, our contract was not signed until, I think, February 19, 1914.

Q. Did you handle any other magazines before you took on Curtis?

A. Well, Hearst publications and "Collier's," and I guess that was all at that time.

Q. Did you ever handle the "Pictorial Review"?

A. Why, we never had the agency until just lately; that is, one of the other dealers in town had it, but we gave up the—or, rather, it was taken—the Curtis agency was taken away from us the 22d of December, and then our understanding was if when things straightened out so that we could have the "Pictorial," that we was to get it, so we wrote them and have them come in our name now.

Q. Well, before the Curtis Company cancelled their contract with you, were you handling "Pictorial Review" wholesale?

A. Well, we had an arrangement with the other dealer whereby he sold us "Pictorial Reviews" for cost.

Q. For cost; in other words, you handled it under cover; is that what you call it?

A. Well, in a way, yes.

Q. Now, were you ever approached by any of the representatives of the Curtis Publishing Company to cease handling the "Pictorial Review" wholesale?

A. Well, at the time when we wanted to take it we wrote to the Curtis Publishing Company and asked them if we could have it, and they wrote back, according to their letter that, according to our contract, why, they did not see how we could.

Q. What did you do then?

A. So we made another arrangement with one of our sub-dealers.

Q. To handle "Pictorial"?

A. To handle "Pictorial."

Q. Did the Curtis Company find out that you were handling it in that manner?

A. Why, I don't know whether they did or not, until perhaps maybe two or three months ago, when their road man was through we talked the thing.

Q. Who was their road man?

A. Mr. O'Neill.

Q. Well, what did he say?

A. Well, we talked the thing over, and he asked us if we wanted—if we—I told him right out what arrangements we had in getting the "Pictorial Review," and I told him that it was getting where we did not see why where the other business, the other magazines, coming out direct, that more were coming right along, where we are not better off to have these agencies and not the Curtis agency, and we told him that it would not make much difference to us whether we had the Curtis agency or not. And about, I think it was three or four weeks later, we had a letter saying that after thirty days our Curtis contract would be discontinued. And that took effect December 22.

Q. Now, did you ever handle the "Pictorial"—I mean "Every Week"?

A. "Every Week" we have been drawing through the News Company so far. We have made application for it, though.

Q. Now, you speak of having correspondence with the Curtis Company about the handling of "Pictorial Review." Have you that correspondence with you?

A. I can't give you that.

Q. Well, you were requested in a subpoena to bring that correspondence?

A. Yes.

Q. Why didn't you?

A. I haven't it any more.

Q. Why not?

A. Why——

Q. What has become of it?

A. At the time Mr. O'Neill was there he told us

that he had been sent out to check up one of the men in the office that had been writing some letters to the agents that——

Q. Did he give you the name of the man in the office?

A. Mr. Donnelly.

Q. A Mr. Donnelly?

A. And he said that he would like to have those letters and make copies of them. Well, at the time, we did not see any reason why he should not do that, so he took those letters down to the hotel, and either forgot to return them—at least, he did not return them.

Q. Have you ever requested the return of them?

A. No, we did not, because up to now we did not see where they would do us any good or any harm, his having them.

Q. How long ago was that?

A. Why, a matter of two months or so.

Q. Two months.

(After informal discussion:)

MR. SPIESS: Mr. Douglas of the Curtis Company agrees to stipulate that his agent, Mr. O'Neill, did obtain correspondence pertaining to the "Pictorial Review" from Mr. Fischer, of Selsemeyer & Company, which correspondence up to this time has not been returned to Mr. Fischer.

THE WITNESS: I believe——

MR. WELCH: Oh, wait one minute. And he produces copies of that correspondence now and will produce such correspondence as he has later on.

MR. SPIESS: Well, now, is this batch here that I have (indicating), the exact copies of correspondence that the agent obtained from Mr. Fischer? Do you know that, Mr. Douglas?

MR. DOUGLAS: I think those are the carbons.

By MR. SPIESS:

Q. Would you recognize the correspondence?

A. Well, I think I would. And, in regard to turning these letters over, my partner, Mr. Selsemeyer, gave the letters to Mr. O'Neill. I did not give them.

Q. Well, he took them from your firm?

A. He got them from our firm, yes.

Q. Well, will you look these over and see whether or not they are copies of the correspondence the agent got from you, the Curtis agent?

A. (The witness examines the letters.) I am quite sure those were the letters.

MR. WELCH: Well, that is all right, then, Mr. Spiess.

MR. SPIESS: Yes.

MR. WELCH: He says they are copies of the letters.

MR. SPIESS: That is all right.

MR. WELCH: Then would you let me put on the record that Mr. Douglas produces from his files copies of the letters referred to by the witness?

MR. SPIESS: Yes, that is all right.

MR. WELCH: I simply want to make that appear.

MR. SPIESS: Yes, that is all right.

MR. WELCH: That it was an error. A man took something away and he forgot to return it, and we have nothing to keep in these files—we are giving you all the correspondence we have got, everything.

By MR. SPIESS:

Q. I now show you carbon of a letter dated March 13, 1917, from the Curtis Publishing Company, marked Commission's Exhibit No. 85, and ask you if you remember receiving that letter (handing same to the witness).

A. I am quite sure we did.

MR. SPIESS: I offer that.

MR. WELCH: Did you offer both of them?

MR. SPIESS: I have not yet, but I will offer that.

MR. WELCH: I think you better offer the whole correspondence—those two letters, I mean.

MR. SPIESS: Yes.

By MR. SPIESS:

Q. I show you a letter dated Sheboygan, Wisconsin, March 19, 1917, marked "Commission's Exhibit No. 86," and ask you if this is a reply to a letter marked "Commission's Exhibit No. 85" (handing same to the witness).

MR. WELCH: I thought that Douglas letter was a reply to his.

MR. SPIESS: No, his is a reply to Douglas'.

By MR. SPIESS:

Q. Isn't this a reply to the other one (indicating)?

A. Yes.

MR. SPIESS: Oh, yes. It was written on the back of it. It must be.

THE WITNESS: Yes, I guess that is it.

MR. SPIESS: I offer that.

EXAMINER MOORE: The letters are received without objection.

(The letters were received and marked "Commission's Exhibit No. 85" and "Commission's Exhibit No. 86," respectively, the same being in words and figures as follows, to wit:)

COMMISSION'S EXHIBIT No. 85.

"March 13, 1917.

Mr. W. J. Selsemeyer,
City News Depot,
Sheboygan, Wisconsin.

Dear Mr. Selsemeyer:

At your convenience may we receive a few

lines from you touching the point in the next to the last paragraph of our letter dated February 27th?

To be specific, have you made any arrangements to wholesale The Pictorial Review?

Thanking you in advance.

Very truly yours,

THE CURTIS PUBLISHING COMPANY,
*District Manager.*

Dictated by
MED BHL"

(The above exhibit bears the following rubber stamp:)

"MAR 22 1917
DAILY MAIL M".

---

COMMISSION'S EXHIBIT NO. 86.

"REPLY SHEET

PLEASE WRITE YOUR REPLY BELOW FOR A PROMPT ADJUSTMENT OF THE MATTER REFERRED TO. DO NOT RETURN THE ORIGINAL LETTER. RETAIN THE ORIGINAL FOR YOUR FUTURE REFERENCE.

Sheboygan, Wis., March 19, 1917.

Mr. M. E. Douglas, Manager,
Circ. Dept., Curtis Publ. Co.,
Philadelphia, Pa.

Dear Sir:

We have your favor of the 13th inst., in further reference to yours of February 27th in regard to wholesaling the Pictorial Review, and in reply wish to say we were very much surprised at

the attitude you are taking in this matter, and although we were aware of the clause in our contract, we were under the impression that where it would not in any way interfere with sale of your publications, there would be no trouble in getting your approval to wholesale other magazines.

We believe in making your decision, you failed to take local conditions into consideration, but rather based your course on general conditions. It is not a question of the wholesale privilege with us but rather a question of buying direct, as you well know there is practically nothing in magazines which we are compelled to buy through the News Company, and as we are, outside of the Terminal Cigar Co., the only general magazine dealers in Sheboygan, under the circumstances, you can readily see what the wholesale end of our business amounts to. We cannot understand why you should wish to deprive us of the additional profits which would be ours if we were in a position to buy direct, in fact we are maintaining several Curtis sub-dealers on the outskirts of this city at a loss to us, as our reports will show that these dealers are selling only from one to three copies of the Post and one copy of the Gent weekly. In making these deliveries, we are obliged to cover at least three miles, and if we were in a position to furnish them other periodicals, there is no question but what this would result to our mutual advantage.

We have also been offered the agency for the Literary Digest, but owing to your stand in the above matter, we were unable to accept. We are advised that a number of other leading publishers are going to sell direct in the near future, and we would therefore ask you to advise us at your

earliest convenience, just what your attitude will be in the future.

Awaiting your reply, we are.

Respectfully yours,

SELSEMEYER & FISHER."

(Commission's Exhibit No. 86 bears the following pencil marks: After signature "Selsemeyer & Fischer" the letter "S." At top of letter the initials "M E D.")

(Commission's Exhibit No. 86 bears the following rubber stamps:)

"ANSWERED
MAR 22 1917
M. E. D."

"RECEIVED
MAR 22 1917
F. M. B."

"ANSWERED
MAR 22 1917
M. E. D."

"SCATTER
MAR 22 1917
Daily Mail."

By MR. SPIESS:

Q. I now show you a letter dated Sheboygan, Wisconsin, February 23, 1917, marked "Commission's Exhibit No. 87," and a carbon copy of a letter dated February 27, 1917, from the Curtis Company, in reply thereto, marked "Commission's Exhibit No. 88," and ask you if that is the correspondence received and sent by you.

A. Yes, they are.

MR. SPIESS: I offer these in evidence.

MR. WELCH: No objection.

EXAMINER MOORE: Admitted in evidence without objection.

(The letters were received and marked "Commission's Exhibit No. 87" and "Commission's

Exhibit No. 88," the same being in words and figures as follows, to wit):

COMMISSION'S EXHIBIT No. 87.

"W. J. Selsemeyer E. C. Fischer

CITY NEWS DEPOT

Sheboygan, Wisconsin, February 23, 1917.

Mr. M. E. Douglas, Manager,
Circulation Department,
Curtis Publishing Co.,
Philadelphia, Pa.

Dear Sir:

We beg to advise we have just been offered the Wholesale Agency for Sheboygan for The Pictorial Review, but as our contract with your Company prohibits acceptance without first obtaining your approval, we therefore take this opportunity ask your permission to accept this agency. As they have no intention of selling through the boys, they would in no way interfere with the sale of Curtis publications, and under the circumstances, we feel that you will have no objections to our acting as their agents.

Kindly let us hear from you by return mail, and oblige,

Respectfully yours,
SELSEMEYER & FISCHER,
Per (Signed) W. J. SELSEMEYER."

(Commission's Exhibit No. 87 bears the following rubber stamps):

"Received
Feb 26 1917
F. M. B."

"Answered
Feb 26 1917
M. E. D."

COMMISSION'S EXHIBIT No. 88.

"February 27, 1917

Mr. W. J. Selsemeyer
City News Depot
Sheboygan, Wisconsin.

Dear Mr. Selsemeyer:

In reply to your letter dated February 23 pertaining to the Pictorial Review:

Our mutual interests, yours and ours in common, will be best served by your not making any arrangements to wholesale the other periodical referred to.

That you may get our exact shade of meaning, let me quote from a letter recently mailed to a Curtis District Agent in another state, of whose loyalty to us we were not wholly confident as we are of your loyalty:

In this letter to the other District Agent we said:

> 'If you undertake it (wholesaling the other periodical mentioned) directly or indirectly, we should wish to cancel your arrangements with us.'

There is nothing temporary or uncertain about our policy of continued direct supplies to District Agents including you in accordance with our contracts; and our mutual interests, yours and ours alike, will be best served by the maintenance of methods and policies above mentioned.

At your convenience in the course of a few days, we shall be very glad to have you tell us what is your preference with respect to the continuance of the very pleasant relations which have so long existed between us.

We are much interested in any increased local effort for larger sales of THE COUNTRY GENTLE-

MAN and are willing and anxious to pay handsome, liberal bonuses for increases in net sales of THE COUNTRY GENTLEMAN during months to follow.

With kind personal regards,

Very truly yours,

THE CURTIS PUBLISHING COMPANY,

Dictated by MED SM." *District Manager.*

(Commission's Exhibit No. 88 bears the following rubber stamps):

"Answered Mar 8 1917 M. E. D."

"Refer to Mr. Douglas. (In pencil) Mar. 8."

By MR. SPIESS:

Q. Mr. Fischer, is your firm the only wholesaling firm in Sheboygan?

A. Well, it was up until the time of the Curtis Agency was transferred, and of course there is a boy there now wholesaling the Curtis publications.

Q. Is he the only wholesaler now outside of you?

A. Yes, as far as I know.

Q. Do you know whether or not he handles any other publications besides Curtis?

A. I don't think he does.

Q. What equipment have you for distributing to the retail trade?

A. Auto truck.

Q. Auto truck. How many retailers are there in your city?

A. Well, magazine retailers, there is only five.

Q. Do you reach all of them?

A. Yes, sir.

Q. Do you know whether or not the American News Company reaches all of them?

A. They only reach one.

MR. WELCH: What is that question? Reach one what?

MR. SPIESS: Retailer.

THE WITNESS: Outside of ourselves.

By MR. SPIESS:

Q. Do you know whether the American News Company has a branch agency in Sheboygan?

A. They have not.

Q. How do they reach this one retailer?

A. By mail or express.

Q. Who pays the charges, if you know, on periodicals received by this retailer from the branch of the American News Company?

A. I think they have the same arrangements as we have, and we pay the charges on ours.

Q. Do you charge anything for distributing your periodicals to the retailers in your city?

A. No. We are supposed to do that on account of the wholesale profit we make. We are supposed to deliver them.

Q. Now, how many boys have you who handle your periodicals and newspapers?

A. Well, between thirty and thirty-five.

Q. How many so-called "Curtis boys" have you?

A. We haven't any now.

Q. Well, how many did you have?

A. About six or eight.

Q. How many boys did you report on to the Curtis Company as selling its publications?

A. That number.

Q. That is all?

A. Yes.

Q. Did any of those six sell anything else besides Curtis publications?

A. No.

Q. No newspapers?

A. No, these were exclusive boys—and "Ladies' Home Journal" and "Country Gentleman."

Q. Have you ever received any money from the Curtis Company for obtaining boys to handle their publications exclusively?

A. I don't think so.

Q. Did you ever receive any money from the Curtis Company for lecturing these boys as to how to better promote the sales of the Curtis Company publications?

A. We did not.

Q. Did you ever go to any of the schools and obtain boys for the Curtis Company?

A. No. Their road man, as a rule, did that.

Q. Did you ever visit any of the so-called Curtis boys' parents?

A. No.

MR. SPIESS: Now, this letter, he identified that. I thought I had offered it, but I did not, so the reporter tells me. I want to offer that.

MR. WELCH: Did you offer it?

MR. SPIESS: I thought I had, but I have not.

EXAMINER MOORE: Received without objection.

(The letter was received and marked "Commission's Exhibit No. 89," the same being in words and figures as follows, to wit):

COMMISSION'S EXHIBIT No. 89.

"March 23, 1917.

Mr. W. J. Selsemeyer
City News Depot
Sheboygan, Wisconsin.

Dear Mr. Selsemeyer:

If you desire it we believe you can get the wholesale agency for The Literary Digest. Suppose you write to the Circulation Manager, Mr. J. F. Bresnahan, 254 Fourth Avenue, New York City.

We have no objections to your wholesaling that publication to news dealers only. We believe you can, if you will, handle it in such a way as not to lessen the sales of our publications in your city.

As before stated, our disposition is to concede to your individual interest everything we can without sacrificing mutual interests.

Very truly yours,

THE CURTIS PUBLISHING COMPANY,

MED BHL *District Manager.*

Dictated by."

(Commission's Exhibit No. 89 bears the following pencil notations: "also Pic." and "L. D.")

MR. SPIESS: That is all.

CROSS-EXAMINATION.

By MR. WELCH:

Q. Mr. Fischer, did I understand you to say you were in the wholesale business on February 1, 1914?

A. Yes, sir.

Q. And that you had your—made your contract with the Curtis Publishing Company on February 19, 1914?

A. Well, that I believe is the time we got our contract back, and I think that is the time it is dated, although we handled their publications from the first of the month on. They were simply transferred to us.

Q. Well, then, you had not handled any other magazines before you took on the Curtis publications, because you took those on just about the time you started in business, isn't that a fact?

A. Same date, yes.

Q. Was that—was the Curtis contract the first one you made?

A. Well, I suppose not. I suppose the Hearst

publications—you see we have a bond with them. Those were signed first.

Q. You don't know, then?

A. No——

Q. You don't know——

MR. SPIESS: Wait a minute, Mr. Welch. I think he said he did. He said the Hearst was the first.

MR. WELCH: No, that is not——

MR. SPIESS: Just repeat the question and answer.

(The record was read.)

MR. WELCH: He said he supposed.

MR. SPIESS: He said he did know.

MR. WELCH: No, he did not. He said he supposed.

By MR. WELCH:

Q. Well, do you know which magazine you first took on?

A. Yes, we must have signed our Hearst publications bond first, because they got that right after the first of the month.

Q. All right. Now, at that time who was handling "Pictorial Review"?

A. Why, I think the American News Company, or Wisconsin News Company.

Q. That was the concern that you meant when you spoke of some other dealer in town having it, is it?

A. No.

Q. What other dealer?

A. No, that was the Terminal Cigar Company.

Q. The Terminal Cigar Company?

A. Yes, sir.

Q. Did they handle "Pictorial Review"?

A. Well, you mean previous to 1914?

Q. Yes.

A. Well, they drew, I suppose they drew theirs through the news company, same as we did.

Q. Are they still in business?

A. Yes, sir.

Q. Do they do a wholesale business on magazines?

A. Well, if you would consider handling the "Pictorial" the way they did.

Q. Well, I am asking you the question, do they do any wholesale business in magazines in Sheboygan?

A. Not at present.

Q. There is another wholesaler handling the Curtis publications now, isn't there?

A. Yes, sir.

Q. And that is the only publication he handles, isn't it?

A. I think it is.

Q. The Curtis publication?

A. Yes, sir.

Q. Now, when you wrote to the Curtis Publishing Company and asked for permission to handle "Pictorial Review," you testified that they would not give you the permission and you made an arrangement to handle "Pictorial Review" without their knowledge, didn't you?

A. Well, we made arrangements with the other dealers to handle them and sell them to us for costs.

Q. Yes, and that practically amounted to your handling them, didn't it?

A. Well, it did in a way, yes.

Q. Who delivered those "Pictorial Reviews" that you have just been referring to, to the trade?

A. We did, with our other magazines.

Q. What?

A. We did, with our other magazines.

Q. You did?

A. Yes, sir.

Q. Then you did distribute "Pictorial Review"

and acted as wholesalers after you had been refused permission by the Curtis Publishing Company; isn't that a fact?

A. Well, we did not draw them from the "Pictorial Review."

Q. No, I am not asking you that. You drew them from the news companies?

A. No, we drew them from this other dealer.

Q. I mean from this other dealer.

A. Yes, sir.

Q. And you have a special arrangement with him?

A. Yes, sir.

Q. By which you got them at a price that was satisfactory?

A. Yes, sir.

Q. How many retailers did you say there were at Sheboygan?

A. Five.

Q. You say the American News Company reaches only one of them?

A. One other besides us.

Q. One other besides you. Well, it can reach them all, can't it?

A. Yes, but most of the other three don't handle only things that are distributed from town, they don't handle other magazines. They have been handling the Curtis publications.

Q. Yes, but if they wanted to handle any magazines?

A. They could get them.

Q. That the American News Company handle they could get them readily from the American News Company?

A. Yes, sir.

Q. Isn't that a fact?

A. Yes, sir.

MR. WELCH: That is all.

RE-DIRECT EXAMINATION.

By MR. SPIESS:

Q. Did you tell the Curtis agent about the arrangement you had made to handle "Pictorial Review" through this other man?

A. I think—yes, we told him at the time he came for the—the time he came for those letters and was checking up Mr. Donnelly, he said at that time, we told him——

Q. What did you say that he said?

A. I don't remember exactly what he said.

Q. In substance can you state what he said?

A. Well, we talked the thing over very thoroughly, and we told him at that time that it had gotten to a point where we didn't care very much whether we had the Curtis agency or not, we wanted this other stuff. And I don't know as he made a definite answer in regard to how the company felt in regard to that matter.

Q. What was his name?

A. O'Neill.

MR. SPIESS: That is all.

MR. WELCH: That is all.

(Witness excused.)

---

GEORGE E. SEIDLER, called as a witness on behalf of the Commission, having been first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Give your full name and address.

A. George E. Seidler, S-e-i-d-l-e-r.

Q. Speak out a little, will you, please?

A. 126 East Jefferson, Springfield, Illinois.

Q. What is your occupation, please?

A. Wholesale news dealer.

Q. How many wholesale news dealers are there in your city?

A. Just one.

Q. Who is that?

A. Well, no. I— No, I will correct that statement. In Springfield, are you referring to?

Q. I am speaking of Springfield. That is where you live, isn't it?

A. That is where I live. But then I want to place you correct on the——

Q. Well, give the information.

A. — on Springfield.

Q. Give me the story about the wholesale news dealers.

A. Three in Springfield.

Q. Now, do you, or not, cover any other cities besides Springfield?

A. Yes, sir; Quincy, Illinois, and formerly Bloomington, Illinois.

Q. Do you operate in Bloomington now?

A. I do not.

Q. Do you do business in Quincy?

A. Yes, sir.

Q. And in Springfield?

A. Yes, sir.

Q. Is that a correct picture of it?

A. Yes, sir.

Q. How long have you been in business, in the wholesale magazine business?

A. About fourteen years.

Q. Where were you located when you began business?

A. Quincy, Illinois.

Q. When did you go to Springfield; about when?

843

A. About nine years ago.

Q. Now, what were the first magazines that you handled; name them?

A. I handled in Quincy, I think they called it "The Blade," or "Ledger," "Saturday Blade" or "Ledger." I don't recall distinctly the name at that time. It was some publication that was published in Philadelphia, was the first magazine I handled.

Q. Did you handle newspapers also at the beginning of your business?

A. Yes, sir.

Q. What newspapers?

A. All Chicago and St. Louis newspapers.

Q. When did you begin to handle the Curtis publications, if you ever handled them?

A. About twelve years ago, as near as I can remember. That is subject to correction because my dates are—I haven't the exact dates.

Q. Did you handle the Curtis publications before you handled any other magazines, or after?

A. Afterwards.

Q. Are you under contract with the Curtis Company?

A. I am not at this time.

Q. When were you, if at all?

A. Up until December 20th of last year.

Q. What happened then?

A. I received notice from the Curtis publications, stating that they—that I would be cut off in thirty days for violating clause 19 of their contract.

Q. You are familiar with the various clauses in the contract, are you?

A. I am, to a certain extent. I could not find Clause No. 19 in the contract, a copy of the contract that I had. I don't yet know what that clause refers to.

Q. Well, what clause actually was in question, however?

MR. WELCH: Now, I object to that, absolutely object to that question.

MR. DALY: Well, I withdraw that.

MR. WELCH: Let him produce the notice he got, Mr. Daly. That says exactly.

MR. DALY: I was trying to save time.

By MR. DALY:

Q. Now, was there a clause in the contract with reference to your handling other magazines?

A. Yes, sir.

Q. What was that, the number of that clause?

A. I don't recall it.

Q. Did you ever handle the "Pictorial Review"?

A. Yes, sir.

Q. During the period that this contract was in force with this clause in it?

A. Yes, sir.

Q. Did you get permission from the Curtis Company to handle it?

A. No, sir.

Q. What objections, if any, were made to you by the Curtis Company as to the handling of the "Pictorial Review"?

A. They wrote me a letter stating that they—in reference to "Pictorial Review"—asking me not to handle it, or words to that effect.

Q. Did you reply to that letter?

A. I did not reply, to my knowledge.

Q. Did any of their representatives see you with reference to it?

A. Yes, sir.

Q. What did they say to you about it?

A. I want to correct that last statement. I don't recall any representative calling on me in reference to "Pictorial Review" until some time later.

Q. When was that, when did he call on you?

A. About six weeks ago, I should judge; six or seven weeks ago.

Q. What did he say to you about this clause in the contract, if anything?

A. Nothing was mentioned.

MR. WELCH: Who was the representative?

THE WITNESS: Yes.

By MR. DALY:

Q. Who was he, what representative was it?

A. Mr. Gott, of the Curtis Publications Company —Curtis Publishing Company, called on me at Springfield in reference to the Bloomington agency—not anything that I recollect about "Pictorial Review."

Q. Well, what did he call—what about the Bloomington agency?

A. He had an affidavit that he asked me to sign in reference to the time I had the Curtis agency at Bloomington, Illinois, in which he stated that, as near as I can remember it offhand, that the Curtis agency at Bloomington at that time was not my agency but the property of the Curtis Publishing Company, that I was merely acting as an agent and that I understood it as such, that my successor at Bloomington, Mr. Rosenbluth, understood Clause 13 in the contract and knew the contents, and that I also understood that said clause was of common knowledge among the news dealers of the country, and several other remarks of that nature.

Q. Did you sign that statement?

A. I did not sign it.

Q. Did you know why you were cut off from handling the—you have testified that you are not handling the Curtis publications any more. Do you know why?

A. I have an idea. I don't know definitely.

Q. You don't know definitely?

MR. WELCH: We don't want any ideas.

THE WITNESS: I was cut off because I refused to sign that affidavit.

MR. WELCH: I move to strike that answer out. He says he doesn't know why, and then he says he was cut off because he refused to sign that affidavit.

By MR. DALY:

Q. Were you told why, by any representative of this company?

A. That I violated Clause No. 19. I still don't know what that clause means.

MR. WELCH: Was that answer stricken out?

MR. DALY: Yes, strike it out.

By MR. DALY:

Q. Will you look at that letter (handing paper to the witness)? When was it that Gott saw you, this agent you are talking about, do you know?

A. I don't remember the exact date, six or seven weeks ago, as near as I can remember.

Q. Now, you have testified a while ago that the prohibitive clause was Clause 13 in the contract?

A. Yes, sir.

Q. And that is correct, is it?

A. That is the clause referred to by Mr. Gott; I don't know whether it is correct or not, because I am not familiar.

Q. Well, now, I will show you that Clause 13. Will you look at Clause 13 in the contract (handing paper to the witness)? That is the refraining clause, is it not?

A. That is the refraining clause.

Q. Yes. Now, that is the clause that you were speaking about, isn't it, that you violated, and not Clause 19?

A. Yes, sir, that is the clause I violated, No. 13.

Q. And this Clause 19 you have been testifying about is simply—will you look at this contract again and look at Clause 19—what is Clause 19 (handing paper to witness)?

A. The contract that I signed did not contain this clause, according to my knowledge of it.

Q. Well, what is Clause 19?

A. Clause 19, that the publishers may terminate this contract in thirty days.

Q. And under that you were notified, weren't you?

A. Yes.

MR. WELCH: Ask him this question, when he testified that he received notice to quit for violation of Clause 19——

By MR. DALY:

Q. Yes. Now, when you testified that you received notice to quit for violation of Clause 19, the clause in question was really Clause 13, was it not?

A. The clause in question was really 13.

Q. Yes?

A. Yes, sir.

MR. DALY: That is clear, isn't it?

MR. WELCH: Yes.

By MR. DALY:

Q. Now, you continued to handle the "Pictorial Review," didn't you?

A. Yes.

Q. How many copies were you handling?

A. At Springfield, about three hundred and seventy-five; and about two hundred copies at Quincy.

Q. How many copies of the "Post" were you handling?

A. About five hundred and fifty copies at Quincy. None at Springfield.

Q. In Quincy how many wholesalers are there?

A. One.

Q. Who is that?

A. Myself.

Q. How large a place is Quincy?

A. Thirty-six thousand plus, last population.

Q. What equipment have you for distributing papers in Quincy, and magazines, and papers?

A. We have automobiles, horses and wagons, employ boys for that purpose.

Q. How many retailers are there?

A. About thirty-five.

Q. You cover all of those, or not?

A. We cover all of them.

Q. How about the American News Company, does it operate in Quincy—speaking of Quincy alone?

A. Yes.

Q. How does it distribute its papers there—magazines, rather?

A. By mail and express.

Q. And how many boys have you in Quincy?

A. About fifty.

Q. How many "Curtis boys" in that city?

A. About eighteen or twenty.

Q. They handle the Curtis publications exclusively, do they?

A. No, not exclusively. About six or eight handle Curtis publications exclusively. I should judge about half of them. I will change that. About half of them handle Curtis publications exclusively.

Q. Half of what?

A. Half of the——

Q. Of the thirty-five?

A. No, of the eighteen or twenty. That would be nine or ten.

Q. Now, do the others hand——

A. The others handle newspapers, and all other magazines, as well as Curtis publications.

Q. What proportion of the business in Quincy is made up by the Curtis Company's publications, approximately?

A. I would judge about a twentieth—very small part.

MR. WELCH: Are you speaking of his business?

MR. DALY: Yes, his business.

By MR. DALY:

Q. Now, in Springfield, about what proportion of the business is Curtis business, your business I am speaking of?

A. I am not so familiar with the conditions of the Curtis business in Springfield. I never handled it there and really could not give any——

Q. Oh, you don't handle Curtis?

A. No.

Q. The town that you handled the Curtis business in is Quincy, is that correct?

A. Quincy, yes.

Q. What work, educational work, have you done with the boys in Quincy?

A. Personally I have done very little. My brother there has been the manager, the manager who has active command.

Q. Well, you know what has been done over there?

A. Yes, sir.

Q. By your firm, don't you?

A. Yes, sir. But then personally I have had very little to do with that. My brother has utilized the methods that I employed at other agencies in order to make that business a success.

Q. Did you secure all the Curtis boys in Quincy for your organization, or did the Curtis Company secure them for you?

A. We secured the greatest majority ourselves.

Q. Who secured the other boys for you?

A. The other boys were secured through correspondence of the Curtis Publishing Company, advertisements, and various other means used by them.

Q. Now, did you understand my question? You said the other boys—I meant the boys, not Curtis boys.

A. Not Curtis boys?

Q. Yes.

A. Well, will you ask that question again, please?

Q. How did you secure the boys who are not Curtis boys?

A. We secured them by one boy telling another boy, going to schools, inserting advertisements, and by getting as many boys to secure other boys for us as possible. We have no direct manner of——

Q. How many retailers did you say there are?

A. About thirty-five.

Q. How do you distribute your magazines to those retailers?

A. By automobile.

Q. And do you follow up the distribution of them or not?

A. Oh, yes.

Q. How do you do that?

A. It is followed up in this manner. Do you mean by following up by—do we make recoveries?

Q. Yes. What do you do? How do you keep in touch with the retailers, is what I want to know?

A. We call on the retailers, some every day, and all of them once a week.

MR. DALY: That is all.

CROSS-EXAMINATION.

By MR. WELCH:

Q. You said you handled the Curtis publications twelve years ago, about, didn't you?

A. About.

Q. At first?

A. Yes, sir.

Q. Where was that?

A. Quincy.

Q. Quincy?

A. At Quincy.

Q. How long had you been in the business then?

A. A year or two.

Q. What had been your business before that?

A. Wholesaling.

Q. Newspapers?

A. Wholesaling newspapers.

Q. You did not wholesale any magazines before you took on the Curtis publications, did you?

A. Except as I mentioned.

Q. What?

A. "The Saturday Blade," or "Ledger," we had a little wholesale business on that. In other words, we employed boys who turned into us direct for those publications.

Q. And was that the only magazine or publication?

A. That, to my knowledge, was all.

Q. That you handled before you took on the Curtis publications?

A. To my knowledge, that was all.

Q. Was that "Saturday Blade" or "Ledger" more in the nature of a newspaper than a magazine?

A. Not my knowledge of it. It was put up more in the magazine style. It was considered more of a magazine.

Q. A very insignificant paper, wasn't it?

A. Well, that is, considering those at that time.

Q. Yes.

A. It was considered quite a leading seller. It would not be today.

Q. Is it still in existence?

A. I don't know.

Q. Are you the only wholesaler of magazines at Quincy?

A. Yes, sir.

Q. At the present time?

A. Yes, sir. Well, no, not at the present time. The Curtis publications have, according to my testimony—have a new agent there.

Q. Yes.

A. Well, just at the present time.

Q. At this time the Curtis Publishing Company, since your agency was discontinued, have an agent there who distributes—a wholesale agent who distributes the Curtis publications?

A. Yes.

Q. To the retail dealers?

A. Yes, sir.

Q. And boys; is that a fact?

A. Yes, sir.

Q. And do you know whether he handles any other magazines or not?

A. Not to my knowledge. I think not.

Q. You were asked about the number of "Pictorial Reviews" that you handled at Springfield and the number you gave at how many?

A. About three hundred and fifty in Springfield; about two hundred in Quincy.

Q. And you were asked about the number of "Saturday Evening Posts"?

A. About five hundred and fifty at Quincy.

Q. And how many at Springfield?

A. I don't handle them at Springfield.

Q. Well, how many "Ladies' Home Journals"?

A. At Quincy?

Q. Yes.

A. Well, I really can't give those figures offhand, because I haven't them at my command. I haven't been at Quincy for some two or three months.

Q. You had the figures for the "Pictorial Review," but you cannot give them for "The Ladies' Home Journal"?

A. That is due to the fact that I refreshed my memory on the figures of the "Post" and "Pictorial" since coming up here, but I did not do so on the "Ladies' Home Journal."

MR. WELCH: I see. That is all.

MR. DALY: That is all.

(Witness excused.)

---

W. T. MCFADDEN, called as a witness on behalf of the Commission, having been first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. SPIESS:

Q. Mr. McFadden, what is your full name?

A. W. T. McFadden.

Q. Where do you do business?

A. Decatur, Illinois.

Q. What kind of business are you in?

A. Wholesale news dealer and retail newsstand.

Q. How long have you been a wholesale news dealer?

A. It is eleven years and one and one-half months; December, 1906, I started.

Q. What was the first magazine you started to wholesale?

A. The Red Star News Company's group—Frank A. Munsey publications.

Q. Frank Munsey publications?

A. Frank Munsey publications was the beginning.

MR. WELCH: What is the name of this witness? I beg your pardon. I was interrupted.

MR. SPIESS: McFadden. He stated he has been in the business about eleven years, wholesale newspapers.

THE WITNESS: Eleven years, one and a half months.

MR. SPIESS: He also stated that the first magazines that he started to wholesale were the what?

THE WITNESS: Red Star News Company's group, F. A. Munsey's publications.

By MR. SPIESS:

Q. How long have you been under contract with the Curtis Company?

A. I think about—it is ten years and about one month. I have my 1913 and 1914 contracts, but I haven't got the contracts before that.

Q. Did you ever handle the "Pictorial Review," Mr. McFadden?

A. Well, I do and I don't. My brother——

Q. Have you ever handled it? Just answer that, will you please?

A. No, not as a wholesaler.

Q. Not as a wholesaler?

A. Not as a wholesaler. I run a retail store also, and I handle it that way.

Q. Well, now, did you ever try to handle it?

A. Yes, I—— In April this year I figured on handling it, but after I got some information from traveling men who had been going through there, I decided not to.

Q. Traveling men representing whom?

A. For "Pictorial Review," and also the circular

letters from the Curtis Publishing Company referring to the——

Q. Did any traveling man for the "Pictorial Review" tell you that you ought not to handle it?

A. No; he told me that I ought to handle it.

Q. Then do you wish to correct your statement, then, that from the information you got from the "Pictorial Review" man you decided not to handle it?

A. Yes. I decided not to handle it because I had some information that there was a fight on the Curtis agency handling that.

Q. Did you get that from the "Pictorial Review" man?

A. No, sir; I got that from other men, from traveling men of the different newspapers.

Q. Different newspapers?

A. Yes, sir.

Q. Have you ever gotten that information from any Curtis traveling man?

A. Well, no, only in this respect, that an affidavit was made there showing that I did not handle the "Pictorial Review." Mr. Gott got that affidavit from my brother.

Q. Who is Mr. Gott?

A. Mr. C. M. Gott, traveling representative of the Curtis Publishing Company.

Q. When did he get this affidavit, do you know?

A. Yes, sir; I have that right here (producing a paper). It is before Justice of the Peace James O'Mara, April——

Q. This is dated the sixth day of April, 1916.

A. It is an error on the part of the justice of the peace. It was 1917.

Q. Can you state of your own knowledge why Mr. Gott obtained this?

MR. WELCH: Now, I object to that. In the first place, the witness did not swear to it.

MR. SPIESS: Just let me put my question, Mr. Welch, and then you can see whether you want to object to it.

By MR. SPIESS:

Q. Can you state of your own knowledge why Mr. Gott of the Curtis Company asked your brother to make this affidavit?

MR. WELCH: Answer yes or no.

By MR. SPIESS:

Q. Just answer yes or no.

A. No, I cannot, because Mr. Gott came there——

MR. WELCH: Now, wait a minute.

MR. SPIESS: Wait a minute.

By MR. SPIESS:

Q. Were you present when Mr. Gott obtained this affidavit from your brother?

A. No, sir.

Q. Did Mr. Gott say anything to you in reference to this affidavit?

A. Not until after it was made.

Q. But he did say something, did he?

A. He said that he had that affidavit and gave me the duplicate that he had made.

Q. Why did he give it to you, do you know?

A. Yes, sir; because the clause in our contract does not allow us to handle any magazines which are not authorized by the Curtis Publishing Company.

Q. Well, you were not handling the "Pictorial Review," were you?

A. No, but that statement——

Q. Then why would Mr. Gott—can you tell why Mr. Gott gave you a copy of this affidavit?

A. Only that I could have knowledge of it.

Q. Why did Mr. Gott think that you should have knowledge of it, do you know?

A. So that I would know the representation he made as to the Decatur agency to the Curtis Publishing Company.

Q. Did he tell you he was going to make that representation to the Curtis Company?

A. Yes, sir; he said he was going to send that affidavit in.

Q. Have you any other correspondence with the Curtis Company in connection with the "Pictorial Review"?

A. No, sir; none at all.

Q. Now, is it or isn't it a fact, Mr. McFadden, that you did or did not handle the "Pictorial Review" at one time in a wholesale capacity?

A. It is not a fact.

Q. You never did?

A. It has been represented all along that Harry McFadden handled that, for the first issues, for the April issues.

MR. WELCH: Does he mean that he never did handle it?

MR. SPIESS: That he never did handle "Pictorial Review."

By MR. SPIESS:

Q. And Harry McFadden is your brother?

A. Yes, sir.

Q. Did you ever handle the "Every Week"?

A. Yes, sir; at one time I did handle "Every Week."

Q. Wholesale it?

A. Yes, sir; tried to.

Q. How long ago was that?

A. I have no recollection of it. It was right at the beginning?

Q. Beginning of what?

A. When they broke away from the—when the "Chicago Herald" and the "St. Louis Republic" dropped the Sunday magazine and "Every Week" came out, and that was the time that I attempted to wholesale it, or start a sale on it.

Q. Can you approximate the time, say about two years, or three years, or four years?

A. I should judge about three years. I am not—it is hard to keep that date in mind.

Q. Well, how long did you handle it?

A. I handled it then about—altogether about five weeks all told.

MR. WELCH: Is this "Every Week"?

MR. SPIESS: Yes.

THE WITNESS: "Every Week."

By MR. SPIESS:

Q. Why did you stop?

A. Why, I stopped because the plans that I had on it did not work out right. We started out to wholesale it through the Sunday papers, tried to make "Every Week" take the place of the Sunday magazine in the Sunday "Herald" and Sunday "Republic," and at first it went good, and then the sale dropped down until I did not want to bother with it any more on Sunday, and I dropped it entirely.

Q. Did you ever handle the Publishers' News Company's magazines?

A. No, sir, I never had the opportunity.

Q. Did you ever try to handle it?

A. Yes, sir.

Q. Why didn't you have the opportunity?

A. Because the Curtis Publishing Company pre-

vented it with a clause in their contract, and with letters and telegrams.

MR. WELCH: What paper was this?

THE WITNESS: Publishers' News Company.

MR. SPIESS: Publishers' News Company magazines.

MR. WELCH: Yes.

THE WITNESS: "Delineator" and "Everybody's."

By MR. SPIESS:

Q. Did you ask permission of the Curtis Company to handle these publications?

A. No, sir, I don't believe that I asked permission, but I received their circular letters, or attempted to handle it. I had a man there by the name of Welker that was making Decatur his headquarters and trying to get me to take that agency on, and as I remember it —it stands out very clearly in my mind—I received a telegram from the Curtis Publishing Company wanting to know whether I was handling the Publishers' News Company's magazines on a contract or without a contract. And I advised them along this line, something, I cannot remember the words—it is no doubt on file at one of the telegraph offices down there—I advised them that I had not as yet handled the Publishers' News Company, nor signed the contract—something along that line. And I received a letter from Mr. Douglas, I believe.

MR. WELCH: I object to the contents of a letter. We will produce any letters that we can find, but I don't want the witness to state the contents of letters.

By MR. SPIESS:

Q. Well, just state what happened then, why you didn't handle it.

A. Why, because of that telegram, which asked if I was handling the Publishers' News Company under contract or without contract. That is why I didn't handle it, because I advised him then that I were not handling it up to that time.

Q. Did they advise you not to handle it?

MR. WELCH: Now, that calls for the contents of the letter and I object to it.

THE WITNESS: Well, can't you produce that letter?

MR. SPIESS: Just a minute.

THE WITNESS: Pardon me.

(After discussion off the record.)

EXAMINER MOORE: Now, if you want anything on the record state it.

MR. SPIESS: Do you object to the witness testifying to what happened in 1912 about the Curtis Company shutting him off?

MR. WELCH: I object to the witness testifying in regard to the contents of a letter written in 1912, which is not in existence at the present time.

MR. DALY: Well, we can show——

MR. SPIESS: Do you object to him testifying that the Curtis Company shut him off in 1912?

MR. WELCH: Oh, no.

MR. SPIESS: Well, that is all right.

By MR. SPIESS:

Q. Were you shut off by the Curtis Company?

MR. WELCH: Now, I object to the form of the question.

By MR. SPIESS:

Q. Were you or were you not shut off?

MR. WELCH: I object to the form of that question.

MR. SPIESS: Just let me ask the question, Mr. Welch, and then you can object. I cannot see how you are going to object before you hear what I say.

MR. WELCH: I heard what you said.

MR. SPIESS: Well, I had not finished.

MR. WELCH: Well, go ahead and complete that sentence. It may be worse than I think it is.

MR. SPIESS: Well, all right, then. Your objection may probably be doubly sustained.

By MR. SPIESS:

Q. Were you or were you not shut off from handling the publications of the Publishers' News Company by the Curtis Publishing Company?

MR. WELCH: Are you through?

MR. SPIESS: I am through, sir.

MR. WELCH: Now, I object to the form of the question. I object to that as calling for a conclusion of the witness. And I object to the use of the words "shut off."

MR. SPIESS: I submit, Mr. Examiner, the question is perfectly proper.

EXAMINER MOORE: I think you better re-frame it. Objection sustained.

MR. DALY: Why, if the Examiner please, it has been shown in this case here that these letters are not in the files. This gentleman hasn't them. They are accounted for. They are lost or something, and under such circumstances as that there is not a particle of question—I don't think Mr. Welch will seriously contend that we could not have this witness testify as to his recollection of those letters under those circumstances.

MR. WELCH: Mr. Daly, I object——

EXAMINER MOORE: To the form of the question.

MR. WELCH: To the use of the term "shut off."

MR. DALY: Well——

MR. WELCH: I object.

MR. DALY: Change your question, Mr. Spiess.

MR. WELCH: The characterizations you make of our actions on this contract, that is what I object to.

By MR. SPIESS:

Q. Did you or did you not decline to take on the periodicals of the Publishers' News Company on account of the objections of the Curtis Publishing Company?

A. I did decline.

Q. On that account?

A. On that account.

Q. Now, did you ever receive from the Curtis Company any correspondence in the month of February, 1917, or March, 1917, relative to your not handling the periodicals of other publishers, without first obtaining permission from the Curtis Company?

A. I did, a circular letter, form letter.

Q. Now, you say at that time you were not handling "Pictorial Review" wholesale?

A. I were not.

Q. You were not wholesaling "Every Week"?

A. No, sir.

Q. Then, can you tell of your own knowledge why those letters were sent to you calling your attention to Clause 13 of your contract?

A. Yes, because they did not desire that we take on "Pictorial Review."

Q. Did they know that you were going to take on "Pictorial"?

A. They know that all news dealers——

MR. SPIESS: Now, I move to strike out that answer.

By MR. SPIESS:

Q. Did they or did they not have an intimation that you were going to handle "Pictorial Review"?

A. Yes.

Q. Do you know of your own knowledge where they got that information?

A. Only judging from my past connections. We take on every magazine that shows a net increase.

Q. Yes, it was your intention to take on "Pictorial Review"?

A. Absolutely so.

Q. Why did you want their permission?

A. Because I figured that the Curtis Publishing Company publications would net more than the "Pictorial Review" by itself.

Q. Well, did you know if you took on the "Pictorial Review" and "Every Week" that you would lose your Curtis agency?

A. I felt sure by the clause in my contracts that I would.

Q. Did you receive any other intimation that you would be outside of the clause in your contract?

A. Just that one form letter or every letter referring to the clause from time to time, several of them.

Q. Did Mr. Gott of the Curtis Company tell you that you might——

MR. WELCH: Please don't lead the witness. I object to the form.

By Mr. Spiess:

Q. Did Mr. Gott state to you what action the Curtis Company might take if you handled the "Pictorial Review" or "Every Week"?

A. I believe not.

Q. How many boys have you?

A. About twenty-five boys.

Q. How many so-called Curtis boys, have you?

A. Oh, eight, I think.

Q. How many boys do you report on to the Curtis Company?

A. The whole 25, 25 or 30 each week.

Q. Those 25 or 30, do they or do they not handle exclusively Curtis publications?

A. They handle the Curtis along with the other magazines, but there are six or eight boys who handle nothing but the three Curtis Publishing Company magazines.

Q. Are there any other wholesalers in your town outside of your brother who is wholesaling "Pictorial Review"?

A. None except the news company, the American News Company?

Q. Have they a branch in your city?

A. No, sir. You see, it has 71 branches all told.

Q. Just answer the question. Strike out the last.

A. Sure.

Q. Have they a branch in your city?

A. No, sir.

Q. What is the nearest branch they have to your city?

A. St. Louis, Missouri.

Q. How far away is that from your city?

A. One hundred and thirteen miles.

Q. How do the retailers in your city get supplies from the American News Company branch?

A. There are two, those by express or mail.

Q. Who pays those charges, the dealer?

A. Each individual dealer pays his own express charges on the news company.

Q. Do you charge the retailer anything for the distribution you make to him, both magazines or newspaper?

A. No, sir; not at all.

Q. Have you ever received any money for obtaining or coaching boys?

A. Yes, sir; I received—just a short time ago I received five dollars for James McCarthy. He became a master salesman.

Q. But that was not for obtaining James McCarthy?

A. No, sir; that was for him. James McCarthy as well had went up from salesman to the master degree.

Q. Before you got five dollars?

A. Yes, sir.

Q. What must a boy do in order to become a master salesman?

A. As I remember there is 125 "Saturday Evening Posts" per week, 50 "Country Gentlemen" and 40 "Ladies' Home Journals."

Q. How long was McCarthy working before he became master salesman?

A. Oh, he was between two and three years.

Q. It took him between two and three years to reach that rank?

A. Yes, sir.

Q. Have you any other boys that have reached that rank?

A. No, sir; not yet. There is a grade whereby we receive, they allow money, such as salesman and master salesman. I don't remember just the amount.

Q. But have you ever received any money for obtaining boys for the Curtis Company?

A. No, sir.

Q. Have you ever received any money for doing promotion work for the Curtis Company in the way of coaching boys how to sell Curtis publications?

A. Well, there is one promotion. It is hard to answer that question. There is one promotion whereby the Curtis Company gives a card free to the boy. The magazines cost us two and a half and the boy, a boy sending that card in, we get the credit for the wholesale work, but we have started upon our work by starting the boy out and so it is not exactly promotion.

Q. No, but have you ever received any money from the Curtis Company for getting these boys together and teaching them how best to increase their sales of Curtis publications?

A. No, sir; not to my recollection.

Q. What portion of your business is Curtis publications?

A. About a third.

Q. About a third?

A. Approximately, we have the Hearst group and "Collier's" and "Literary Digest."

Q. Are you taking into consideration the newspapers and magazines too?

A. Well, yes; that is right. Do you mean the net profit of the Curtis as against the net profit of others, or gross amounts?

Q. No, the gross sales, what proportion of your business is Curtis?

A. Well, they are about two-thirds of the gross sales of the magazines that we wholesale.

Q. I am not talking about magazines, I mean papers and magazines.

A. Oh, my, they are about one-tenth of the whole business, they are not one-tenth.

Q. They are not one-tenth of the whole business of newspapers and magazines?

A. No, sir; absolutely not.

MR. SPIESS: That is all.

CROSS-EXAMINATION.

By MR. WELCH:

Q. But the Curtis publications, the Curtis publications comprise about two-thirds, that is the gross sales of the Curtis publications comprise two-thirds of your whole magazine business?

A. My whole magazine wholesale business.

Q. I mean of your whole magazine wholesale business.

A. Yes, sir.

Q. Now, you were asked whether you ever received anything for obtaining boys. Don't you recall that payments have been made to you of a dollar for getting boys for the Curtis publications?

A. Of a dollar?

Q. Yes, for each boy.

A. Why——

Q. When the boy sells a certain number of copies?

A. Well, yes—no, I don't recall that or I don't remember that we ever had a boy stick that long where we had received that. He may be——

Q. Do you mean a boy never stuck long enough to get a dollar?

A. How long has that offer been in force, do you know?

Q. I should imagine a long time.

A. I don't recollect that offer under a year. I don't think we have received any before. I might be

mistaken. I think that is credited to the account, I think.

Q. Now, what was the additional money that you received on account of Harry McCarthy's becoming a master salesman?

A. I don't recall. I received the money as he went to his ranks, as he became, went to his ranks and they probably put—I believe that offer calls for nine and a quarter, and I presume I received it all. I received five dollars the last remittance.

Q. You received five dollars and then additional money?

A. Yes, sir; but the whole offer is only nine dollars and a quarter for making a boy a master salesman.

Q. Then you received nine dollars and a quarter, you think?

A. I think so.

Q. How many boys do you report in your weekly reports to the Curtis Publishing Company?

A. Well, on account of the various boys selling it averages between twenty-seven and twenty-eight per week. Some don't sell each week.

Q. How long have you had the agency of the Curtis Publishing Company?

A. Ten years and about a month and one-half.

Q. Now, who obtained those boys?

A. I did, sir.

Q. How did you obtain them?

A. Why, I started in when I entered that town. I began with fifty copies of "The Saturday Evening Post" and I worked my way up until I had gained the recognition of the company when they gave me "The Ladies' Home Journal." Of course, in ten years the boys that they gave me are all gone, but they did give me several boys, probably. I know not more than

three. They gave me Stouffer when I got the "Journal," but they didn't give me any when I started the "Post." I started the "Post" with fifty copies per week, as I remember.

Q. When you got the boys, about two or three, didn't you get them from advertising by the Curtis Publishing Company in various papers?

A. It is through their co-operation, but I maintained my end of it. I figure that I——

Q. What did you do in the matter?

A. Why, we done such things as to arrange——

Q. I am asking you what you did about the twenty-five boys?

A. Well, I must answer this other way in order to bear on that, and I have got the whole list between eleven and fourteen years in the city of Decatur through the assistance of Mr. Nutter.

Q. Mr. Nutter is one of the representatives of the Curtis Publishing Company?

A. Yes, sir; and he worked that plan out and every time a representative comes to that city we work out the plan.

Q. A representative of whom?

A. Curtis Publishing.

Q. And it is the result of the working out of these plans of the Curtis Publishing Company that you gained your boys, is that it?

A. Yes, sir; about half and half.

Q. Half and half what?

A. I mean that the boys have not been obtained by the representatives that come there. They have not done it all by themselves.

Q. I do not say that they have done it all, but you say you got these boys through the co-operation and arrangements with the representatives of the Curtis Publishing Company; is that a fact?

A. That is a fact; yes, sir.

Q. Did you ever get any one of these twenty-five boys absolutely on account of your own work without any assistance of the Curtis Publishing Company?

A. Yes, sir.

Q. How many?

A. Well, I have got them.

Q. And give their names; I want their names.

A. Well, that is pretty hard, the boys come and go.

Q. I am speaking of the twenty-five boys you have now; how many did you get without any assistance from the Curtis Publishing Company?

A. Well, I got Rothfuss, Jr., his father and I talked it over before I got him.

Q. Who else?

A. Wallace, I think.

Q. Aren't you sure?

A. Yes, sir; I think I talked to that boy before he received any literature from the Curtis people.

Q. Now, who else?

A. Lewis McFadden, for one, my own brother; however, I don't take——

Q. What?

A. He is my own brother.

Q. He is your own brother?

A. He is one of the boys, yes, and sells, that I got. He doesn't stick though.

Q. Who else?

A. I can't recollect. If I had the sales report handy I could give you a pretty good idea. I know those boys as well as my own family. I have been dealing with them for ten years.

Q. Well, if you know them as well as your own family, can't you give the names?

A. No, sir; because I don't make out the sales report each week.

Q. Then outside of those two that you have mentioned and your brother, you don't know of any boys that you obtained yourself?

A. In the present circumstance because I have not got the names in front of me to go down.

Q. All right. How long have you been handling Curtis Publishing Company's publications?

A. Ten years and a month and one-half. I have not handled all three of them that time, part of the time I didn't handle the "Journal."

Q. How long did you handle the first one of the publications?

A. "The Saturday Evening Post," ten years ago and a month and one-half I started in on that.

Q. That was being handled then by boys?

A. There were a few boys, there were several boys drawing direct.

Q. At that time when you took on "The Saturday Evening Post," ten years ago, were you wholesaling any other magazines?

A. Yes, sir; the Red Star News Company, Munsey, that is the way that I remember it. I started it out and I originally went after the Curtis publications because I had the Red Star group.

Q. Now, you say that in April, 1917, you had some idea of handling "Pictorial Review" and you got some information from "Pictorial Review" road men; what sort of information was that?

A. Why, I got some information relative to the fact that some of the men who had made other towns and had put on a dealer for "Pictorial" that that dealer had got into hot water by handling the "Pictorial" and the Curtis.

Q. Did the "Pictorial Review" man tell you that?

A. Yes, sir.

Q. Do you know who the man was representing the "Pictorial Review"?

A. No, sir; it was the first time he ever called and I don't recall his name.

Q. Did he ask you to take the "Pictorial"?

A. Yes, sir; and we did take it.

Q. You did take it?

A. Yes, sir; my brother took it.

Q. Your brother took it?

A. Yes, sir; it was put in his name.

Q. Did I understand you to say that you were present when this interview took place?

A. No, sir; you understood me to say that I was not present.

Q. But Mr. Gott talked to you about it afterwards?

A. Mr. Gott gave me a copy afterwards.

Q. Did I understand you to say that you were present when this affidavit was made?

A. No, sir; you understood me to say that I was not present.

Q. But Mr. Gott talked to you about it afterwards?

A. Mr. Gott gave me a copy afterwards.

Q. Did Mr. Gott tell you about a law suit that had been brought by the "Pictorial Review" against the Curtis Publishing Company?

A. No, sir; not that I remember.

Q. He said nothing about that?

A. Not that I remember.

Q. At the present time there are two—you and your brother are both engaged in the wholesale business in the town that you are located in, is that a fact?

A. Yes, sir; he handles the "Pictorial Review" only.

Q. He handles the "Pictorial Review" and you handle other magazines?

A. Yes, sir.

MR. WELCH: All right, that is all.

RE-DIRECT EXAMINATION.

By MR. SPIESS:

Q. Now, as a matter of fact, you have stated on cross-examination that you could only recall two or three names of boys that you actually obtained. Now, isn't it true or is it not true that whether or not the Curtis Company obtains boys through you or their own men, that a large percentage of them have sold other publications, newspapers or other publications; isn't that so, or is it not?

A. Well, I would not call it a large percentage in my case?

Q. Well, about what percentage of the 20 or 28?

A. Approximately twenty per cent. of them have handled other publications or newspapers or carried routes or something of that sort.

Q. Now, the $9.25 that you obtained for the services rendered—what is his name?

A. That was on account of James McCarthy becoming a master salesman.

Q. Yes. McCarthy becoming a master salesman, you didn't consider that $9.25 in payment of obtaining McCarthy or coaching McCarthy or obtaining——

MR. WELCH: I object, whether he considered.

By MR. SPIESS:

Q. Well, was it, do you know whether it was for that?

A. Well, with me and the assistant we have, it was for coaching McCarthy to that point.

Q. Well, what did you do, coaching McCarthy?

A. Well, I helped in the matter all I could. Whenever I knew of a party who wanted a "Country Gentleman" or "Saturday Evening Post" I would tell him about it.

Q. You would do the same to your boys who sold newspapers?

A. Yes, sir.

Q. Then it was not particularly to help McCarthy to sell the "Saturday Evening Post" any more than you would help a newspaper boy, turn over the business to him?

A. No, sir; that is the position I have always taken with the most reliable boy.

Q. But you did not consider that you got $9.25 for obtaining McCarthy?

A. No, sir; I never expected to obtain that. That was their offer.

MR. DALY: That is all, Mr. McFadden.

MR. WELCH: Just one minute.

RE-CROSS-EXAMINATION.

By MR. WELCH:

Q. You spoke of about twenty per cent. of these twenty-five Curtis boys handling other publications and other newspapers, do you mean other magazines?

A. Yes, sir; handling—oh, just picking up those, they don't handle regular routes, newspapers, principally.

Q. Newspapers principally?

A. Yes, sir.

Q. And they only pick up magazines as they receive orders for them?

A. Yes, sir.

Q. They do not make an effort to push the magazines?

A. Well, they are always anxious to sell anything that they can make a profit on. That question was as to how many boys were induced by Curtis literature.

Q. No, that was a question of how many Curtis boys sold other publications.

A. Oh, well, there is more than that that sold other publications on the total list, such as——

Q. Well, how many more?

A. About fifty per cent.

Q. About fifty per cent?

A. Yes, sir.

Q. Well, how do they sell those other publications? Do they sell them as they receive orders, or do they go out and make an effort to push the other publications?

A. They go out and make an effort to push the other publications—newspapers.

Q. You mean newspapers now?

A. Principally.

Q. Newspapers principally?

A. Oh, they also sell a magazine if they can get an order.

Q. But they do not make as great an effort as they do for the newspaper?

A. No, sir.

Q. Do you know of your own knowledge whether or not any of these 20 or 25 boys sell "Pictorial Review" for your brother?

A. No, sir, none of them do.

Q. None of them do? The fact that you had the agency for the Curtis publications during ten years has been of great assistance to you in your magazine business, has it not, and in your wholesale business generally?

A. Yes, sir. It has been a net earning each week, but you have to earn it.

Q. Well, hasn't it materially benefited you and helped you to build up your business?

A. It has helped to build up my business, but it has not been the factor that built up my business.

Q. I didn't ask you that. I asked you whether it materially helped you?

A. Yes, sir. To what extent?

Q. Materially.

A. Yes, sir; materially, but then——

Q. Well, let it go at that.

A. The point that I figure was that the newspaper was the basis of an agency.

RE-RE-DIRECT EXAMINATION.

By MR. SPIESS:

Q. I think you have testified that only about one-tenth of your gross business is Curtis publications.

A. Yes, sir.

Q. And I now ask you whether or not it is not true that you are rendered more material assistance by newspapers and other magazines than you are by the Curtis publications.

A. Yes, sir.

MR. SPIESS: That is all.

RE-RE-CROSS-EXAMINATION.

By MR. WELCH:

Q. By newspapers and other magazines all taken together, do you mean?

MR. SPIESS: Well, take them all one way or another.

MR. WELCH: Well, if we have a blind question I will have to stop and clean it up.

Q. Do you mean that any one magazine other than

Curtis Publishing Company magazines helps you more, or do you mean all your papers?

A. I mean all my newspapers and magazines put together.

(Witness excused.)

---

THOMAS H. KENNELL was called as a witness on behalf of the Commission, and after being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. SPIESS:

Q. What is the full name?

A. Thomas H. Kennell.

Q. Where do you do business?

A. Elgin, Illinois.

Q. What kind of business are you in?

A. Why, the newspaper business, magazine business and retail store business.

Q. Are you in the wholesale business?

A. Yes, sir.

Q. Of magazines?

A. Yes, sir.

Q. And newspapers?

A. Yes, sir.

Q. How long have you been in the wholesale business of newspapers and magazines?

A. Well I tell you, we have been in business out there, I imagine, about fifteen years, and I think we have had—we have wholesaled magazines possibly it was a couple of years after we went in the business; previous we were handling, I think, I am not sure, was the Red Star News Company's publications, but then

about two years after we were in business we got the Curtis publications, which we also wholesaled.

Q. Before you entered into a contract with the Curtis Company did you handle any other magazine?

A. We used to handle everything from the Western News Company with the exception of the Red Star News Company.

Q. Direct?

A. Direct; we were a wholesaler, or——

Q. Direct?

A. Direct, yes.

Q. What publication was the Red Star?

A. Munsey.

Q. Since you have been under contract with the Curtis Publishing Company have you taken on any other magazines?

A. Yes, sir, we have.

Q. Give us the names.

A. "Pictorial Review," "Woman's Home Companion," "Motion Picture," Warner publications, "Every Week," "Literary Digest," and I do not know what the others are. We have had several others, but I can't just recall them.

Q. Have you asked the Curtis Publishing Company for their permission to handle these magazines?

A. No, sir. About two years ago, when the publishers—when the Western News Company, their representative, Mr. Clay, was out there in the town, and I told him about this Publishers' News proposition, and he told me at the time that in case we took that contract the Curtis Company would take theirs out, and there is correspondence there that will show that.

By Mr. Welch:

Q. What contract was that, the Publishers' News?

A. The Publishers' News Company.

By Mr. Spiess:

Q. When was that?

A. Right here.

Q. I say, when was that?

A. Oh, that is three or four years ago, I should imagine; three years ago.

Q. Did you ask permission to handle the "Pictorial Review"?

A. No, sir.

Q. Or the "Every Week"?

A. No, sir.

Q. Was anything said to you by the Curtis Company or its representatives?

A. Now, excuse me just a moment. No.

Q. Just answer the question.

A. They didn't, no. I guess they thought we could handle them. We found out that the Curtis—we were not making as much money as we could make on these other publications, and we figured if the Curtis wanted their money we would crowd everything.

Q. Just answer this question: Did the Curtis Company or any of its agents object to your handling the "Pictorial" or "Every Week"?

A. I do not think they did. I do not remember. I do not think they knew that we had it.

Q. Did you ever receive any letters from the Curtis Company objecting to your handling other publications without notifying them?

A. I think we have individually or by form letter.

Q. When was that?

A. You get those every once in a while. I couldn't give you dates, I think.

Q. About how long was it since you received the last one?

A. Well, possibly—oh, I couldn't recall it. It may be six months, and it may be further back, ex-

cepting this letter in regard—from the publishers, this letter here in regard to the Publishers' News stuff, whereby they objected to us handling that stuff.

By MR. WELCH:

Q. Have you a letter there about handling the Publishers' News stuff?

MR. SPIESS: Yes. Do you want to see it?

MR. WELCH: Yes, when you get through with it.

THE WITNESS: There is two letters there.

(Mr. Spiess hands document to Mr. Welch.)

By MR. SPIESS:

Q. Now, I show you a telegram dated March 27, 1917, from M. E. Douglas, marked "Commission's Exhibit No. 90," and ask you if you remember receiving that telegram (document handed to the witness)?

A. We may have, but I don't just recall it.

Q. Do you remember it?

A. No, sir, I don't remember it. We may have, but I don't just recall it.

MR. WELCH: We haven't any objection to the introduction of that telegram.

MR. SPIESS: We offer this in evidence.

EXAMINER MOORE: The telegram may be admitted without objection.

(Telegram was received and marked "Commission's Exhibit No. 90," the same being in words and figures as follows, to wit):

COMMISSION'S EXHIBIT No. 90.

(Postal Telegram.)

"March 27, 1917.

T. H. Kennel, Jr.
Kennell Brothers
Elgin, Illinois

It is necessary for us to have the manage-

ment of our Elgin agency entirely distinct and separate from any Elgin Pictorial Review agency.

M. E. DOUGLAS."

(Rubber stamps:) "Passed
Telegram Desk
Sales Division
( )
Charges.....
Mar 27"

By MR. SPIESS:

Q. I now show you telegram dated Elgin, Illinois, March 23, 1917, signed Kennell Brothers, and carbon copy of letter dated March 30, 1917, from the Curtis Publishing Company, and ask you if you remember sending that telegram and receiving that reply. (Documents handed to the witness.)

A. I do not think we ever sent this wire here (indicating).

Q. You do not think you ever sent that?

A. I do not see why we should wire them that way. I do not think we did.

Q. Do you remember receiving that letter?

A. That letter—I have a slight recollection, I could not say positively.

Q. But you do not remember sending the telegram?

A. I do not see why we should send a telegram of that kind. I do not see why we should want to advise the Curtis Company that we are agents for the "Pictorial Review." I would not say we did not send it.

By MR. DALY:

Q. Will you look at that letter?

A. Yes, sir; I think we got this letter.

Q. Now, then, isn't that the telegram which followed it?

A. Well, I don't recall sending it. I don't recall it. It may have been sent. I wouldn't say that it was not. I don't know why we would wire that way.

By Mr. Spiess:

Q. Isn't that the true situation that it sets out?

A. Yes, sir; we were handling the "Pictorial Review." That is the true situation.

Q. You had no objection letting the Curtis Company know?

A. The only reason, we would be cut off handling the Curtis.

Q. Did you have any objection—was there any reason why you should not let them know?

A. Why, just on that, you know, that we would be cut off of their publication.

Q. Do you deny the authenticity of that telegram?

A. I do not deny it. My brother may have sent it, but I do not think we sent a wire of that kind.

Q. You do admit, or do you recognize having received the letter I show you of March 30?

A. I think we received that letter. I have a slight recollection of it

Mr. Spiess: Well, I offer that letter in evidence.

Mr. Welch: I object to this, unless the telegram to which the letter is a reply goes in, and I think each ought to go in.

Mr. Spiess: I take it this is, or this is not, a copy of a letter that the Curtis Company sent Mr. Kennell.

Mr. Welch: It is.

Mr. Spiess: Do you object?

Mr. Welch: I object to the copy of the letter going in unless the telegram which is referred to

in the letter is also put in evidence. I object to part of the correspondence going in.

MR. SPIESS: I do not want to put something in that the man does not know whether he sent or not. I offer them both as evidence.

EXAMINER MOORE: The telegram and copy of letter are admitted in evidence without objection.

(Telegram and letter were received and marked "Commission's Exhibits Nos. 91 and 92," respectively, the same being in words and figures as follows, to wit:)

COMMISSION'S EXHIBIT No. 91.

(Postal telegram:) "97 P G 11 Collect 411P
Elgin Ills Mar 23, 17.

Curtis Pub Co., Phila.

Your wire kennell bros are local agents for pictorial review.

KENNELL BROS.

(Rubber stamp:) Received
Telegram Desk
Sales Division
( )
Charges .50c.
Mar 23 1917"

---

COMMISSION'S EXHIBIT No. 92.

(Carbon copy of letter:) "March 30, 1917.
Mr. T. H. Kennell, Jr.,
Kennell Brothers,
Elgin, Illinois.

Dear Mr. Kennell:

In reply to your telegram dated March 23:

Our mutual interests, yours and ours in com-

mon, will be best served by your not making any arrangement to wholesale the Pictorial Review.

That you may get our exact shade of meaning, let me quote from a letter recently mailed to a Curtis District Agent in another state, of whose loyalty to us we were not wholly confident as we are of your loyalty. In that letter to the other District Agent we said:

> 'If you were to undertake it (wholesaling the other periodical mentioned), directly or indirectly, we should wish to cancel your arrangements with us.'

There is nothing temporary or uncertain about our policy of continued direct supplies to District Agents including you in accordance with our contracts, and we believe our mutual interests, yours and ours alike, will be best served by the maintenance of methods and policies above mentioned.

At your convenience in the course of a few days, we shall be very glad to have you tell us what is your preference with respect to the continuance of the very pleasant relations which have so long existed between us.

We are much interested in any increased local effort for larger sales of THE COUNTRY GENTLEMAN, and are willing and anxious to pay handsome, liberal bonuses for increases in net sales of THE COUNTRY GENTLEMAN during months to follow.

With kind personal regards.

Very truly yours,
THE CURTIS PUBLISHING COMPANY,
*District Manager.*

Dictated by
MED RB

P. S. There are numerous publications which we should be quite willing for a District Agent to

handle if by doing so he could increase his income without disadvantage to us.

C. P. C."

By Mr. Spiess:

Q. About what time was Mr. Clay there to see you in reference to the "Pictorial Review"?

A. Well, I do not know that he was there in reference to the "Pictorial Review."

Q. Are you T. H. Kennell, Jr.?

A. Yes, sir. He was there, I think, on this Publishers' News, and the question there of the "Pictorial Review" also.

Q. Do you remember around April, 1917, having a conversation with Mr. Clay of the Curtis Publishing Company?

A. I think it was. I was trying to locate some correspondence, I think, on that this morning. Let me see that, our letter; I can tell you.

Q. You do remember of having a conversation with Mr. Clay about that time, about the "Review"?

A. I think it was about that time.

Q. About the "Pictorial Review"?

A. Well, Clay was there about a week. I am not sure. I think it was the "Pictorial." I am not sure whether it was the "Pictorial" or some other magazine. We talked over things in general.

Q. Can you recall what Mr. Clay said to you at that time?

A. Why, if it is in regard——

Q. No. Can you recall what Mr. Clay said?

A. Why, if it was last year it was in regard to the "Pictorial," if we take the agency they would cut us off the Curtis.

Q. Now, I show you a letter dated April 3, 1917, from you to the Curtis Company, and a carbon copy of a letter dated April 4, 1917, from the Curtis Company to you, marked "Commission's Exhibits Nos. 93 and

94," respectively, and ask you if you recall that correspondence having been sent.

A. Yes, sir; I recall this letter. Mr. Clay wrote this letter himself and I signed it.

Q. Mr. Clay wrote it?

A. Yes, sir; on our typewriter.

Q. How did Mr. Clay come to write that letter?

A. Why, he wanted us to cancel the agreement with the "Pictorial," and he wrote the letter so it would surely go. I remember now. I told him—I signed the letter to make sure that he would know that the letter was sent.

Q. And you signed it?

A. And I signed it and sent it.

Q. And that is the reply?

A. Yes, sir. I think I remember receiving that.

MR. SPIESS: I offer these in evidence.

EXAMINER MOORE: Let them be admitted in evidence without objection.

(Said letters were received and marked "Commission's Exhibits Nos. 93 and 94," respectively, the same being in words and figures as follows, to wit:)

COMMISSION'S EXHIBIT No. 93.

(Letterhead of:) "KENNELL BROTHERS
News Dealers and Stationers
160 Chicago St.
Elgin, Illinois.

April 3, 1917.

The Curtis Publishing Co.,
Philadelphia, Pa.

Gentlemen:

In accordance with the request in your recent letter and agreeable to the request of your Mr. Clay, we will today cancel our agreement to

act as wholesale agents for The Pictorial Review for this city.

As we have represented these people for some time we will distribute the next issue which goes on sale April 10th, requesting them to make other arrangements for all succeeding issues.

This will give the Pictorial people an opportunity to secure other representation without serious inconvenience to them. As our relations with the Pictorial have been satisfactory to us we feel that this consideration is due them.

Yours very truly,
KENNELL BROTHERS,
By T. H. KENNELL, JR."

(Rubber stamps:) "Apr 6 1917
Daily Mail

Daily Mail
Apr 6 1917
Scatter.

Noted
M. E. D.

Referred
Apr 10 1917
(Penciled) Mr Douglas
Roadmen's Section
( )
Apr 6 1917"

---

COMMISSION'S EXHIBIT No. 94.

(Carbon copy of letter.)

"April 4, 1917.

Mr. T. H. Kennell, Jr.,
Kennell Brothers,
Elgin, Illinois.

Dear Mr. Kennell:

Through our Mr. Clay we have your assurance

that you will not wholesale The Pictorial Review and we thank you very sincerely.

To me personally and to all of us it is gratifying to see the spirit of loyalty and one-mindedness in this matter shown by District Agents everywhere.

You understand I am sure that our inclination is not to dictate what any one of our representatives should or should not do. Not that—not at all. On the contrary the real point is that you and we alike find times when we like to have our friends stand with us, and we are mighty glad to know that we do have so many friends in the field.

Again thanking you for your decision and with all good wishes.

Very truly yours,
THE CURTIS PUBLISHING COMPANY,
*District Manager.*

Dictated by
MED BHL"

By MR. SPIESS:

Q. When did you stop handling the "Pictorial Review"?

A. We never stopped handling it.

Q. You never did?

A. No, sir.

Q. Was any action taken by the Curtis Company——

A. Why, no.

Q. ——because you did not stop handling the "Pictorial Review"?

A. Brother and I talked it over and we figured it out—after that letter was written we talked the matter over and we thought it would be foolish to give up the rest of these agencies in order to hold the Curtis Agency, and we decided if they want to take any action, let them go ahead.

Q. What action had the Curtis Company taken since you have written that letter of April 3rd?

A. Why, they have not taken any action except that they wrote us a letter on the 26th of December that in thirty days our contract would be canceled, that would be about January 26th.

Q. They wrote you a letter that your agency would cease in thirty days?

A. Thirty days; yes, sir.

Q. Is that the only action they took?

A. Why, that is the only action I can recall.

Q. I now show you carbon copy of a letter dated December 24, 1917, addressed to you, from the Curtis Publishing Company, and ask you if you remember receiving the original.

A. Yes, that is the letter, the 24th. I thought it was December 26th. It is dated December 24th.

MR. SPIESS: I offer that in evidence.

EXAMINER MOORE: The letter may be received in evidence without objection.

(Letter was received and marked "Commission's Exhibit No. 95," the same being in words and figures as follows, to wit:)

COMMISSION'S EXHIBIT No. 95.

"December 24, 1917.

Messrs. Kennell Brothers,
160 Chicago Street,
Elgin, Illinois.

Gentlemen:

In accordance with Article 16 of the District Agency Agreement between The Curtis Publishing Company and yourself, we beg to notify you that said District Agency Agreement and your agency thereunder will be terminated, without further notice, upon the expiration of thirty days from the receipt by you of this notice, and that

upon such termination we will return to you any balance of the cash security remaining, with interest.

Very truly yours,
THE CURTIS PUBLISHING COMPANY,
*District Manager.*

Dictated by
MED BHL
Copy to Gott"

MR. SPEISS: That is all.

CROSS-EXAMINATION.

By MR. WELCH:

Q. Did you receive this letter of which this is a copy from the Curtis Publishing Company?

A. We may have received that letter.

MR. WELCH: I offer that in evidence.

MR. SPEISS: It is all right.

EXAMINER MOORE: The letter is admitted without objection.

(Letter was received and marked "Respondent's Exhibit No. 1, 1-16-18," the same being in the words and figures as follows, to wit:)

RESPONDENT'S EXHIBIT No. 1, 1-16-18.

"March 30, 1917.

Mr. T. H. Kennell, Jr.,
Kennell Brothers,
Elgin, Illinois.

Dear Mr. Kennell:

Our letter of this morning mailed under today's date was written before we had opportunity to read a communication just received from our Mr. Clay. It seems he recently talked to you about The Pictorial Review.

Clause 11 of your contract with us has no bearing upon copies that you may order merely for retail. That is all right.

If you rightly understood Mr. Clay's statements, you perceived that our position is one taken for your real advantage. I feel sure that you understand that we desire to co-operate with you in every way we can and that the contractual clause in point is a token of our fair dealing as well as a badge of our self-respect.

We are for everything that makes for permanent mutual advantage to you and to us.

There are numerous publications which we should be quite willing for you to wholesale if by doing so you could increase your income without disadvantage to us.

Now that you have our special bonus offer for sales of THE SATURDAY EVENING POST and THE LADIES' HOME JOURNAL respectively, in addition to the continuation of our very liberal COUNTRY GENTLEMAN bonus offer, I have no doubt that you will realize handsome profits from the sale of our publications during months to follow.

We very respectfully invite your consideration of all this in connection with our previous letter bearing today's date.

With kind regards to you personally and thanking you for the courtesy shown to our Mr. Clay, we are.

Very truly yours,

THE CURTIS PUBLISHING COMPANY,
*District Manager.*

Dictated by
MED SM.

P. S. Within a few days please send us a line or two giving your decision with respect to wholesaling The Pictorial Review.

C. P. Co."

By Mr. Welch:

Q. Before you took on the Curtis agency you said you were handling the "Red Star News"?

A. I think we did. It is away back several years, my memory don't—I could not say positively.

Q. Was that the only magazine that you handled?

A. That was the only one that we handled direct. We handled that a good many years, except when it—when they broke away, I started to handle through the Western News a couple years ago for a short period.

Q. Well, that was the only magazine that you handled?

A. No, sir; we handled publications through the Western News Company.

Q. Wholesale?

A. No, sir; we got them the same way as any other agent got them.

Q. As the retailer gets them?

A. As the retailer gets them; yes, sir.

Q. I was not asking you about the retail business. Did you wholesale any other magazine except the "Red Star News" before you took on the Curtis Publishing Company agency?

A. No, sir; I do not think we did. Now, I would not say positively that we handled that previous to that time.

Q. You are not even positive about that?

A. We handled it a good many years. We would have to look that up. That is ten or twelve years ago. It is pretty hard to remember all that stuff distinctly.

Q. It is possible then that the Curtis publication is the first publication you ever handled wholesale?

A. It is possible, yes.

Q. Now, when did you begin handling "Pictorial Review" wholesale?

A. Oh——

Q. That is, getting it direct from the publisher.

A. Possibly eight, nine months ago, or a year ago; I could not say exactly as to the date.

Q. You did not say anything to the Curtis Publishing Company about handling "Pictorial Review," did you?

A. Only the correspondence you see there, that you have seen.

Q. Well, you didn't know whether you sent that telegram that stated you are the agent for the "Pictorial Review," or not; do you know whether you communicated that fact to them in any way?

A. Why, only through that letter that Mr. Clay wrote, whereby we stated we were handling the "Pictorial Review" and we would cease handling it with the next issue, or something, after the next issue.

Q. Yes. I want to ask you about that letter. You say Mr. Clay wrote that letter?

A. Yes, sir.

Q. Where did he write it? In your office?

A. In our store; yes, sir.

Q. In your store?

A. Yes, sir.

Q. That was written after he had a talk with you, wasn't it?

A. Why, we had been talking along that line.

Q. Wasn't it written after he had a talk with you?

A. This—let's——

Q. If you will answer my questions we will get along quicker.

A. Alright, sir.

Q. Doesn't this letter substantially state what you said you and Mr. Clay talked about in your conversation?

A. Yes, sir. We——

Q. Then this letter correctly sets forth what you wanted to communicate to the Curtis Publishing Company?

A. It was either—it was a question of making that statement or give up the publication.

MR. WELCH: I ask that that be stricken out.

THE WITNESS: Yes, sir; that is exactly what we intended to communicate to the Curtis Publishing Company.

By MR. WELCH:

Q. The only thing you say Mr. Clay happened to write it on the typewriter, is that true?

A. Yes, sir.

Q. And you then read it and signed it?

A. Yes, sir.

Q. And it correctly expressed your views and ideas?

A. Yes, sir.

Q. Now, in that letter it stated, "We will today cancel our agreement to act as wholesale agents for the 'Pictorial Review' for this city."

A. Yes, sir.

Q. You never did cancel that agreement?

A. No, sir.

Q. Therefore, what you wrote in that letter was not true?

A. It was true at the time being, but, as I said, I talked it over with my brother afterwards and after talking it over and so forth he thought it would be a foolish proposition to let the Curtis people dictate to us what magazines we were going to handle and what we are not going to handle, and if we let them do that we would get more publications that would offset our profits than we would get from the Curtis people. Therefore, we decided to let them take their own course about it.

Q. Well, you didn't do what you said you would do in this letter?

A. No, sir; not after the conversation with him.

Q. You didn't notify them that you had decided to do anything differently?

A. No, sir; not as I recollect.

Q. And you left them under the impression that you would act in accordance with this letter?

A. After that I think we did.. I don't think we notified them any differently.

MR. WELCH: That is all.

MR. SPIESS: That is all.

(Witness excused.)

EXAMINER MOORE: A recess will be taken until tomorrow morning at ten o'clock.

(Whereupon, at 5.45 o'clock P. M., a recess was taken until 10 o'clock A. M., Thursday, January 17, 1918.)

## INDEX TO VOLUME II.

| Witnesses: | Direct Exam. Page | Cross-Exam. Page | Re-Dir. Exam. Page | Re-Cr.-Exam. Page | Re-Re-Dir. Exam. Page | Re-Re-Cross-Exam. Page |
|---|---|---|---|---|---|---|
| Harry H. Jefferson | 897 | 911 | | | | |
| Richard E. Gardner | 933 | 946 | 949 | | | |
| Max Annenberg | 949 | 956 | 966 | 973 | 974 | 974 |
| Louis H. Rose | 976 | 984 | | | | |
| Ralph A. Daines | 988 | 997 | 998 | 999 | | |
| Herman Re | 999 | 1010 | 1011 | | | |
| Harvey Stofflet | 1012 | 1024 | 1028 | 1029 | 1030 | 1031 |
| John C. Dreher | 1032 | 1050 | 1053 | | | |
| Charles C. Hall | 1054 | 1072 | 1075 | 1075 | 1076 | 1076 |
| Max Solomon | 1077 | 1100 | 1104 | 1109 | 1110 | 1110 |
| John O'Donnell | 1111 | 1117 | 1117 | 1118 | | |
| Tad M. Shaw | 1118 | 1131 | | | | |
| Scott Krauss | 1132 | 1151 | 1154 | 1155 | 1156 | |
| Harry R. DeWolf | 1158 | 1178 | 1180 | | | |
| Henry Solomon | 1181 | 1205 | 1211 | 1212 | 1212 | 1212 |
| Fred R. Hunt | 1213 | 1229 | 1230 | 1231 | 1231 | |
| Lester Deweese | 1231 | 1248 | 1249 | | | |
| Proceedings | 1250 | | | | | |
| B. A. Mackinnon (Recalled), | | 1260 | | | | |
| M. E. Douglas | 1293 | 1309 | 1313 | 1314 | | |

## RESPONDENT'S TESTIMONY.

| Witnesses: | Direct Exam. Page | Cross-Exam. Page | Re-Dir. Exam. Page | Re-Cr.-Exam. Page | Re-Re-Dir. Exam. Page | Re-Re-Cross-Exam. Page |
|---|---|---|---|---|---|---|
| M. E. Douglas | 1316 | 1418 | 1548 | 1560 | 1567 | |
| Norman K. McInnis | 1522 | | | | | |
| William G. Duff | 1525 | 1531 | 1542 | 1545 | | |
| R. W. Weand | 1570 | 1574 | 1588 | | | |
| Grant Castner | 1589 | 1594 | 1598 | 1598 | | |
| Isaac B. Lazarus | 1601 | 1607 | 1618 | | | |
| Mrs. A. Y. Lane | 1618 | 1623 | | | | |
| Jerome J. Vandewater | 1624 | 1627 | | | | |
| Clarence A. Schnee | 1632 | 1635 | | | | |
| Arthur Anderton | 1639 | 1641 | | | | |
| Clarence E. Turner | 1645 | 1648 | 1651 | 1651 | | |
| Patrick J. Kelly | 1651 | 1659 | 1677 | | | |
| Louis E. Clay | 1680 | 1686 | 1719 | 1725 | | |
| J. L. Lynne | 1756 | 1765 | 1800 | 1805 | | |

## INDEX TO EXHIBITS VOLUME II.


| | Page |
|---|---|
| Commission's Exhibit No. 96 | 902 |
| " " " 97 | 937 |
| " " " 98 | 938 |
| " " " 99 | 939 |
| " " " 100 | 941 |
| " " " 101 | 941 |
| " " " 102 | 942 |
| " " " 103 | 944 |
| " " " 104 | 992 |
| " " " 105 | 995 |
| " " " 106 | 1002 |
| " " " 107 | 1003 |
| " " " 108 | 1005 |
| " " " 109 | 1006 |
| " " " 110 | 1015 |
| " " " 111 | 1017 |
| " " " 112 | 1022 |
| " " " 113 | 1035 |
| " " " 114 | 1037 |
| " " " 115 | 1039 |
| " " " 116 | 1040 |
| " " " 117 | 1042 |
| " " " 118 | 1044 |
| " " " 119 | 1057 |
| " " " 120 | 1058 |
| " " " 121 | 1060 |
| " " " 122 | 1060 |
| " " " 123 | 1061 |
| " " " 124 | 1064 |
| " " " 125 | 1079 |
| " " " 126 | 1081 |
| " " " 127 | 1082 |
| " " " 128 | 1084 |
| " " " 129 | 1086 |
| " " " 130 | 1088 |
| " " " 131 | 1090 |
| " " " 132 | 1120 |
| " " " 133 | 1122 |
| " " " 134 | 1122 |
| " " " 135 | 1124 |
| " " " 136 | 1128 |
| " " " 137 | 1128 |
| " " " 138 | 1137 |
| " " " 139 | 1138 |
| " " " 140 | 1139 |
| " " " 141 | 1143 |
| " " " 142 | 1144 |
| " " " 143 | 1145 |

## INDEX TO EXHIBITS VOLUME II—Continued.


| | Page |
|---|---|
| Commission's Exhibit No. 144 | 1148 |
| " " " 145 | 1149 |
| " " " 146 | 1150 |
| " " " 147 | 1161 |
| " " " 148 | 1162 |
| " " " 149 | 1164 |
| " " " 150 | 1165 |
| " " " 151 | 1165 |
| " " " 152 | 1168 |
| " " " 153 | 1169 |
| " " " 154 | 1170 |
| " " " 155 | 1171 |
| " " " 156 | 1172 |
| " " " 157 | 1174 |
| " " " 158 | 1178 |
| " " " 159 | 1183 |
| " " " 160 | 1185 |
| " " " 161 | 1186 |
| " " " 162 | 1187 |
| " " " 163 | 1189 |
| " " " 164 | 1190 |
| " " " 165 | 1192 |
| " " " 166 | 1193 |
| " " " 167 | 1196 |
| " " " 168 | 1197 |
| " " " 169 | 1198 |
| " " " 170 | 1199 |
| " " " 171 | 1200 |
| " " " 172 | 1201 |
| " " " 173 | 1216 |
| " " " 174 | 1220 |
| " " " 175 | 1221 |
| " " " 176 | 1223 |
| " " " 177 | 1224 |
| " " " 178 | 1225 |
| " " " 179 | 1234 |
| " " " 180 | 1236 |
| " " " 181 | 1238 |
| " " " 182 | 1238 |
| " " " 183 | 1240 |
| " " " 184 | 1243 |
| " " " 185, 186, 187, 188 (Not Printed). | |
| " " " 189 | 1294 |
| " " " 190 | 1432 |
| " " " 192 | 1433 |
| " " " 191 | 1435 |
| " " " 193 | 1440 |
| " " " 194 | 1494 |

ents now, with the exception of the Curtis and the Hearst magazines. I wholesale other magazines that I buy from the Indiana News Company—I re-wholesale them with the sub-dealers that are not independents.

Q. What do you mean by "independent"?

A. Well, the magazines, you know, sell exclusively to the American News Company and don't sell to independent dealers.

Q. How long have you been engaged in that business?

A. About six years; that is, in Terre Haute.

Q. You have stated that you sell the Curtis magazines; is that correct?

A. Well, I had the agency for the Curtis magazines, up until—from the Curtis Publishing Company, up until about the twentieth, or something like that, of December.

Q. Now——

A. I buy from the American News Company the Curtis stuff.

Q. Were you under contract with the Curtis Publishing Company?

A. Yes, sir.

Q. Can you give me approximately the time when you entered into that contract? State about the time.

A. Well, I made one contract two or three months after I started, and then in a year or two, or maybe a little longer, they had me make another contract.

Q. Now, then, did you make any other contract with them?

A. After the first contract?

Q. After the second one.

A. No, sir.

Q. And is that the contract that you have operated under?

A. Yes, sir, the second.

Q. From that time until now?

A. Yes, sir.

Q. Are you familiar with the terms of the contract?

A. Well, pretty well, I think.

Q. Do you know about Section 13 of the contract; do you?

A. Yes, sir.

Q. What is that section, if you know?

A. Well, if I remember right, we cannot take any agency for any magazine without the consent of the publishers. I have the contract.

Q. Now, at the time of your taking on the Curtis Company's publications—I am not clear whether you have testified about that—did you handle any other magazines?

A. Well, just as soon as I started in the wholesale paper business I commenced buying magazines from the Indiana News Company, which is a branch of the American News Company, and paying the wholesale prices to Terre Haute on them, and then re-wholesaling at half of the profit of what they would retail at; in other words, a magazine would cost eleven cents and I would wholesale it at thirteen cents to sub-dealers.

Q. Divide the profit with the sub-dealers?

A. Yes, sir.

Q. Did you?

A. Yes, sir; that was the idea, dividing the profit with the sub-dealer.

Q. Now, did you handle the "Pictorial Review" at that time?

A. Yes, sir.

Q. Prior to making this contract?

A. Yes, sir.

Q. And you purchased it in the way that you have stated?

A. Yes, sir.

Q. From the American News Company. How do you get the "Pictorial Review" now?

A. From the Pictorial Review Company.

Q. Direct?

A. Yes, sir.

Q. When did you begin that?

A. When they went independent.

Q. When was that, about when?

A. Well, it was this fall. I forget now what issue it was.

Q. Wasn't it last spring some time?

A. Maybe it was spring—whenever it was. I really forget, time flies so fast. I really—I got the first issue it went independent.

Q. Now, did the Curtis Company—did you ask the permission of the Curtis Company whether you could make that change or not?

A. No, sir.

Q. What objections, if any, did the Curtis Company make about this time?

A. Well, before, if I remember right, before I knew the "Pictorial" was going independent, I got some kind of a letter calling my attention to it. And I didn't know what it meant—calling attention to some clause, and I didn't know what it meant, and I was very busy. In fact, I didn't look it up.

Q. Do you know about when you got that?

A. Well, it was a few weeks before I got word from the "Pictorial Review" wanting me to take their agency.

Q. Yes?

A. If I remember right.

Q. That was a circular letter, was it?

A. I think so; yes, sir.

Mr. Welch: Well, he doesn't know whether it was a circular.

MR. DALY: Well, do you want to put me to the trouble of showing him that circular.

MR. WELCH: Well, I want to know what he is talking about.

By MR. DALY:

Q. Well, you received the letter?

A. I did; yes, sir.

Q. Now, what else did the Curtis Company say to you about it, anything?

A. Well——

Q. Or any of their representatives?

A. I think I got another letter, or something, and then I got another from the Curtis Company asking me—asking me to send them the name as soon as I found out who was going to handle the agency of the "Pictorial Review."

MR. DALY: Is that correspondence there?

MR. SPIESS: Here it is.

By MR. DALY:

Q. Would you look at this letter, dated March 30, 1917, addressed to you by the Curtis Company (handing same to the witness)?

A. Yes, sir.

Q. Is that the letter you received?

A. Yes, sir. I think I have the letter.

(Letter handed to opposing counsel.)

MR. DALY: No objection?

MR. WELCH: All right.

MR. DALY: We offer this letter.

EXAMINER MOORE: The letter is received without objection.

(The letter was received and marked "Commission's Exhibit No. 96," the same being in words and figures as follows, to wit):

COMMISSION'S EXHIBIT No. 96.

"March 30, 1917.

Mr. H. H. Jefferson
703 Ohio Street
Terre Haute, Indiana

Dear Mr. Jefferson:

When you learn who is to be the Terre Haute wholesale agent for The Pictorial Review we shall appreciate your courtesy in sending us his name and address.

I am sure you know that we have at heart the real interests of our District Agents and that the clause on the point in question in your contract is a token of our fair dealing as well as a badge of our self-respect. We are for everything that makes for permanent mutual advantage to the District Agent and to us.

And there are numerous periodicals which we are quite willing for you to handle if by doing so you could increase your income without disadvantage to us.

Very truly yours,
THE CURTIS PUBLISHING COMPANY,
MED BHL *District Manager.*
Dictated by"

(The above exhibit is a carbon copy of a letter.)

By MR. DALY:

Q. Did you reply to that letter, Mr. Jefferson, or not; do you remember?

A. I don't remember. I don't believe I did. I am not right sure. Maybe I did, too. I am not right sure. It seems kind of like I did, too.

Q. Now, did the Curtis Company make any other

objection to you about handling the "Pictorial Review"?

A. Well, Mr. Holl came to see me.

Q. Who is Mr. Holl?

A. He was representing the Curtis Publishing Company.

Q. Well, what did he say to you about it?

A. Well, he told me that I could not handle it, and buy them—that is, I could not buy them from the Pictorial Review Company. But after I explained to him about I had already been buying them from the Indiana News Company in the way I had been doing, he said I could still continue to buy the same amount as I had been buying from the Indiana News Company, and still handle it as I did from them, they could not object to that, but for me to buy them from the "Pictorial Review," why, they would not permit it.

Q. Wouldn't permit you? Did he speak about the contract that you had with them?

A. Yes, sir.

Q. Call your attention to the contract?

A. Yes, sir. If I remember right; yes, sir.

Q. Now, what were you paying for those magazines that you were getting direct from the "Pictorial Review"?

A. Nine and three-quarters——

Q. Nine and three-quarters?

A. Nine and three-quarters, I believe, f. o. b. Terre Haute.

Q. What was it you paid any other?

A. Eleven cents, f. o. b. Indianapolis.

Q. Now, in your dealings directly with the "Pictorial Review" in that way—or distributing the "Review," rather, do you divide your profits with the wholesalers—or the retailers, rather?

A. You mean when I bought them at nine and three-quarters from the "Pictorial"?

Q. Yes.

A. I sold them at eleven cents.

Q. Eleven cents?

A. Yes, sir; to the wholesalers.

Q. And in the other case what do you sell them at?

A. Thirteen.

MR. WELCH: No, he means to the retailer.

By MR. DALY:

Q. To the retailer?

A. I mean I wholesale them at eleven cents to the retailer.

Q. Yes.

A. But in the other case, when I bought them from the Indiana I wholesaled them at thirteen cents.

Q. Yes. Would it take you any longer time to distribute the magazines that you got—speaking of the "Pictorial" now—would it take you any longer to distribute them when you got them from the American News Company than it would when you got them direct, or not?

A. Well, we make—we always make a delivery every Thursday and Sunday, or Saturday night, Sunday morning early, of magazines that come in Monday and Tuesday, we put them out, most of them, you see. These other independent magazines, all the minor stuff that goes out——

Q. Well, would there be any difference in the time that it would take for you to distribute the papers under the new system?

A. No, sir; not as far as time is concerned.

Q. Now, how many retailers are there in your city?

A. There is some forty odd.

Q. How many of them do you serve?

A. I serve them all, with the exception of the Union News Company at the Union Station, and the Union News Company at the Big Four station.

Q. Is there any other wholesaler in your city?

A. There is now, yes, sir.

Q. When, when did that begin?

A. Since the Curtis Publishing Company give their agency to them.

Q. And they took away your agency from you, did they?

A. Yes, sir.

Q. And established another agency?

A. Yes, sir.

Q. Who is that agency?

A. Eggleson—E-g-g-l-e-s-o-n. D. W. is his initials.

Q. Where is the Indiana News Company located?

A. Indianapolis, Indiana.

Q. How do they get their magazines to your city?

A. By express on the Big Four—Adams—American Express, and Pennsylvania Lines, Adams Express; and traction company, Traction Express.

Q. Now, when you get your magazines from the American News Company, who pays the express?

A. I do.

Q. Now, you serve retailers, you have stated; what other agencies do you use to distribute papers and magazines; what other ways do you handle them?

A. Well, you mean in prices?

Q. No, when you are speaking of these retailers, do you include the boy dealers?

A. Yes, sir.

Q. That is, the forty some odd—include boys?

A. No, no; that is just stores and drug stores that handle magazines and newspapers.

Q. Now, how many boys are there, about?

A. Well, they vary. We have had from 250 to 275, along in there, and we have had, I think, along in the last—we have not had quite as many.

Q. How many of those boys handle the Curtis publications altogether?

A. And don't handle anything else?

Q. And don't handle anything else.

A. Well, I could not say. I don't know that there is any exactly, because the magazines were all there, and if they wanted a magazine to deliver, why—or had a customer for any one magazine—we don't keep any record of it—they have the privilege of buying just the same as the stores have.

Q. Well, do they buy that way?

A. Yes, sir.

Q. What instructions do you give the boys as to how to sell the Curtis publications, if anything?

A. Well——

Q. What did you do about that?

A. I have had different meetings at different times and had different sales schemes and prizes at different times.

Q. Now, you make reports to the Curtis Company, don't you?

A. Yes, sir.

Q. In making your reports what would you set out as to the boys, how would you make that report?

A. Well, they furnish us a blank, a sheet, and after we write the name in the space, why, they have it stencilled in all those for us for that boy, and we put opposite his name how many "Posts" or how many "Country Gentlemen," or how many "Journals" he took during that week or during that month.

Q. Now, in the event there was a boy that sold other magazines as well as the Curtis publications, would you put his name in the report?

A. Yes, sir; if he sold any Curtis publications, why, his name went in that report, how many he sold of each one of them.

Q. Do you know how many dealers the American News Company serves—or the Indiana News Company, of those dealers that you serve—if you know that, now?

A. Not offhand, but I can pretty near count them up.

Q. Can you approximate?

A. Well, anything that I had independent the Indiana News Company did not sell them any of those.

Q. I know, but how many of them do they deliver their goods to, if you know?

A. About eight or ten. Those are practically the ones that are right down in town that can't get stuff. But the ones that are out in the residence section, they haven't but about two, and they were handling magazines before ever I started.

Q. Yes.

A. They had more than that, but a lot of them would prefer giving me three cents for magazines rather than to be bothered in having to go after them at the post office and having to wait until the express company come and delivered them to them.

Q. Now, how many "Posts" do you handle?

A. Now?

Q. Yes.

A. That I buy from the American News Company?

Q. Altogether.

A. "Saturday Evening Post," well, I buy a thousand "Posts."

MR. WELCH: Are you speaking about before or after the contract?

MR. DALY: I mean at the time of the contract.

A. At the time that I was under contract?

By MR. DALY:

Q. Yes.

A. 1500 "Posts," 300 "Country Gentlemen" and 800 "Journals."

Q. How many "Pictorial Reviews" are you handling?

A. About 450.

Q. Has that sale increased?

A. Yes, sir.

Q. Or diminished?

A. Yes, sir.

Q. Lately?

A. Yes, sir. Since I took the agency for "Pictorial Review."

Q. Yes.

A. I was getting from the Indiana News Company about 70 when I took the agency.

Q. How many are you selling now?

A. Getting about 450. Of course, we got the dealers that were buying from the Indiana News Company, you know, and the pattern agencies, you know.

Q. You cover the whole thing?

A. They went with me right away just as soon as I could sell them to them at eleven cents.

Q. Now, what have you had from the Curtis—what did you get from the Curtis Company for instructing these boys in the way of money, if any?

A. You mean to go to the boys?

Q. No. What did you get personally?

A. Oh.

Q. For your services for teaching these boys.

A. Well, sometimes I won a contest prize, once of $70. I was about the third or fourth in a big contest once, one of their national contests, I believe fourth. If I remember right, Atlantic City, New Jersey, and a town in New York, and Salt Lake City, I believe it was—I am not right sure. Some of those towns were ahead of me.

Q. Now, when you entered on that contest, do you remember how many magazines, how many "Posts," you handled for them?

A. No, I do not.

Q. Nor "The Ladies' Home Journal," do you remember that?

A. I could not say. I could not give you the figures on this.

Q. Did you get a large increase in the circulation from that contest, or not?

A. Well, yes; it increased.

Q. And did it hold that increase, were you able to hold it after the contest was over?

A. To an extent, to some extent.

Q. To what extent?

A. Well, I could not say without looking at my books.

Q. Can't you give some estimate?

A. No, I could not, really.

Q. Well, if you can't. Now, this $70 is the amount of money you got for instructing the boys, was that?

A. Well, it was promoting sales.

Q. What?

A. It was promoting sales.

Q. Promoting sales?

A. Yes, sir.

Q. During that contest?

A. Yes, sir.

Q. Was that it?

A. Yes, sir. And then one other time I got $46—I believe it was $46, for new boys. I got—they offered a dollar apiece for every new boy you would get that would sell for so long.

MR. DALY: Can Mr. Douglas produce the figures as to the circulation and as the number of copies that were being circulated at the beginning of this contest—Mr. Douglas?

MR. DOUGLAS: I haven't that here.

MR. DALY: Well, you will furnish that about the circulation, the increase?

MR. WELCH: You mean all over the United States?

MR. DALY: No, no; just in this.

By Mr. Daly:

Q. What contest was this, do you know? How was it designated?

A. Well, it was a national contest among the district agents. I think it was about the last one you had.

Mr. Douglas: I think if it was our last national contest I can find that.

Mr. Daly: You will furnish that information?

Mr. Douglas: If we have the data I can produce it.

Mr. Welch: What was the date?

The Witness: Oh, I could not say. I have the paper. I could have brought those bulletins along.

Mr. Welch: Well, was the year—two years ago?

The Witness: Two years ago, I think. I think it was two years ago, if I remember right.

By Mr. Daly:

Q. Now, how many other—did you engage in any other contests during your agency?

A. Yes.

Q. During your contract?

A. Yes, sir; I give different prizes myself. I gave a bicycle once to the boys.

Q. Well, that is, I am speaking now of the Curtis Company.

A. Oh.

Q. What they were giving that you gave.

A. Well, I give two local contests where they furnished some prizes, and I furnished some prizes at the same time.

Q. What prizes did you furnish?

A. Well, the last contest I furnished five dollars in gold, and they furnished some different things—some skates and some gloves, some games, and a coaster wagon, and a cart—at different times. Now, those was

not the two contests, though, and while those contests was going on I give—had meetings two different times and had treats for the boys.

Q. Did you pay that expense?

A. I paid those; yes, sir. I had two meetings at the Y. M. C. A., and paid the Y. M. C. A. five dollars each time. When I introduced the bicycle contest I had a meeting at the Y. M. C. A., and had the boys all in the swimming pool. And that cost me $15, besides the bicycle, which cost $15.

MR. DALY: That is all:

CROSS-EXAMINATION.

By MR. WELCH:

Q. Now, Mr. Jefferson, I understood you to say that you have now two hundred and fifty or two hundred and seventy-five boys, or that you had before the Curtis agency was changed, which?

A. I had before the Curtis agency was changed.

Q. About two hundred——

A. Newsboys and that did not sell "Posts," and boys that did not sell "Posts," and customers that bought from me wholesale.

Q. Now, I am asking you about the two hundred and fifty or two hundred and seventy-five boys that you mentioned. Have you got two hundred and fifty or two hundred and seventy-five boys now, or did you have those before the Curtis agency was changed?

A. Before the Curtis agency was changed.

Q. Yes. How many boys do you have now?

A. Well, a good many of them boys, in fact, are buying from me yet, because we are selling within five hundred, we are getting within five hundred of what we was getting before they took the agency away from me—from the American News Company, and nearly all of the boys have been staying with me pretty

close, and a good many of the dealers are staying with me.

Q. Well, I am not asking you about dealers. I am asking you how many boys that you have now that handle other publications, except the Curtis publications.

A. Well, I don't know. I haven't been keeping a record of it, because I haven't had to make a Curtis report, and of course, I did not put their names down like I had been.

Q. Well, you have not any direct supervision over the boys that are selling Curtis publications now regularly, have you?

A. As an agent?

Q. Yes.

A. For the Curtis Publishing Company?

Q. Yes.

A. No, sir.

Q. Isn't it a fact that when the agency was changed a good many of the boys, the two hundred and fifty boys, ceased selling?

A. No, sir.

Q. For you?

A. No, sir. A good many of them—some of them—a good many of them stayed with me.

Q. Well, how many have stopped?

A. Well, I could not say.

Q. Well, just approximate it.

A. Well, I suppose a third of them.

Q. About a third of the two hundred and fifty?

A. Yes, sir.

Q. Now, those eighty or ninety boys—that is approximately the third of the two hundred and fifty—were turned over by you to Eggleson, the new agent; isn't that a fact?

A. No, I didn't turn anything over.

Q. Well, they were turned over to the new agent, were they not, whether you did it or not?

A. I don't know.

Q. You know that——

A. They were notified by the Curtis Publishing Company that Mr. Eggleson had been given the agency for the Curtis publications. A letter was sent each one of them, and a lot of them did not go. They came on over to me and bought, and some of them——

Q. Did the seventy or eighty or ninety that did not continue with you—they went over to Eggleson, didn't they?

A. I don't know whether they did or not.

Q. Well, they did not continue with you?

A. No.

Q. How many boys did you report to the Curtis Publishing Company on your weekly report?

A. I reported all the boys that bought "Posts."

Q. How many were they?

A. Well, I don't know.

Q. Don't you remember how many you reported?

A. No, I have not counted them.

Q. Only report the boys that bought "Posts"?

A. Why, yes; "Posts" and "Country Gentlemans" and "Journals."

Q. Did you report as many as two hundred and fifty?

A. Well, I don't think there was two hundred and fifty buying "Posts" and "Country Gentlemans" and "Journals."

Q. Did you report as many as two hundred?

A. This fall.

Q. Did you report as many as two hundred?

A. I don't know. My sales report will show, that I sent them.

Q. You can't give any figures on it?

A. No, I could not give any figures.

Q. You said in that report you included boys who sold other magazines—in the report that you made to the Curtis Company.

A. Well, those boys that we reported bought—I sold other magazines to whenever they wanted them, and there was a lot of them that wanted them.

Q. Well, now——

A. But, of course, it did not show in my report that they was buying other magazines.

Q. Yes. I understand that. Well, now, what do you mean that when they wanted to—you mean when they would come and ask you for a specific magazine?

A. They would come in and say, "I want so many 'Cosmopolitans,'" and "I want so many 'Popular Mechanics,'" and "I want a 'Red Book'" and "I want a 'Pictorial Review.'" Why, they got it. They were right there for them, and they knew they could buy them at wholesale price—those that I had direct, and those that I did not have direct, they could get the fifteen-cent ones at thirteen cents.

Q. Was that a regular order from your boys, or was it just an incidental one?

A. Well, there was no record kept of it, but we was selling so many of these and so many of them a month, and——

Q. Well, the boys that sold the Curtis magazines got a fairly regular number every week, didn't they?

A. Well, we had a record book of the Curtis Publishing Company that we always kept right on our counter on Thursdays, Fridays and Saturdays, and it was right back on the shelf right back of the counter the rest of the week. And if a boy would come in, especially on what we call "Post" day, which is Thursday, we would always take that record book back down, and if he did not get as many as he did the week before, we would call his attention to it—"Why, you got so many last week. What is the matter?" "Did

I?" Well, if he got more this week, we would say, "I see you got another one this week." We always made mention of it.

Q. Always kept track of their sales?

A. Yes, sir; because we always put it down in the book so we could make a report that the contract called for.

Q. To the Curtis Company?

A. Yes, sir.

Q. Do you keep any record book of any other magazines?

A. No, sir; not like that. No other magazine asked for it like that.

Q. You did not watch the sales of any other magazines to the boys in the same way; did you?

A. No.

Q. You had nothing to go on in the way of a record?

A. No.

Q. How many other magazines did you handle when you had the Curtis publications?

A. All that is published practically.

Q. How many were there?

A. You mean independents?

Q. Yes.

A. Independents——

Q. No, no; how many magazines you handled wholesale. I don't want the names. I just want to know how many. Can you state the number?

A. No.

Q. Twenty-five?

A. Oh, my, yes.

Q. A hundred?

A. Yes.

Q. Now, I suppose the majority of those magazines were never asked for by the boys; isn't that a fact?

A. Well, there was what was on there. The biggest part of them was wholesale, the boys that come in there. Of course, we have some—we had retail trade there that we sold retail price to.

Q. Did you get a certain number of magazines from the—publications from the Curtis Publishing Company to especially deliver to boys?

A. Well, deliver to boys and dealers and wholesale; yes, sir.

Q. Were there any specified to be delivered to boys?

A. No, no specified amount to be delivered to boys; no, sir.

Q. Now, what were the different meetings and the various sales schemes that you speak of with reference to the sale of the boys of the Curtis publications?

A. Well——

Q. What did you mean by different meetings?

A. Well, when we would go to put prizes up, we would always have a meeting of the boys that sold the "Posts" and "Gentleman" and "Journals." And I generally sent out—had a card printed and mailed it to the post office, notifying them at a certain time we would meet, either at the Y. M. C. A. or at my place. I had the cards printed at my expense and mailed to them at my expense, and the meeting was always paid for by me—never was paid for by the Curtis Publishing Company.

Q. But as the result of those meetings you got remuneration in prizes, didn't you?

A. Well; no, sir. I give those prizes to the boys that the Curtis Publishing Company furnished with other prizes that I would give. Sometimes I had contests that the Curtis Publishing Company didn't give any prizes and didn't know nothing about at all. They even wasn't never mentioned.

Q. Well, isn't it a fact that if the boys' sales exceeded a certain figure it always benefited you?

A. Well, the more "Posts" I sold the more profit there was. I paid two and a half cents apiece for them and sold them at three. I made a half cent on each one of them.

Q. Well, at those meetings that you had, those were meetings, and cards sent out for which you say you paid, and various other expenses—they were all with reference to the Curtis publications, weren't they?

A. Yes, sir.

Q. They all related to the sale by the boys of Curtis publications?

A. Yes, sir.

Q. And you never had any such meetings of boys in reference to any other publications?

A. No, sir.

Q. Didn't you ever receive any reimbursement in any way from the Curtis Publishing Company for your expenses in those matters?

A. Not on those meetings; no, sir.

Q. Not on those meetings?

A. No, sir.

Q. Were you asked to call those meetings?

A. I had—Tom Wood, a road man, asked me to call a meeting when we were going to give this bicycle, that he was going to be there and wanted to talk to the boys. One other time, or maybe two other times, Mr. Nutter asked me to call a meeting.

Q. I see. And those meetings were all at the suggestion and at the instance of the Curtis Publishing Company?

A. Not all of them were.

Q. But a great many of them?

A. Those three were.

Q. Those three were?

A. And if I knew—sometimes if I knew when a

road man was coming in, why, I would call a meeting, and my own ideas and all. It was not even suggested by the road man.

Q. Yes, I understand. And that was with reference to the sale by the boys of the Curtis publications?

A. Yes, sir.

Q. And the money that you expended on sending out notices and calling these meetings, you never considered a loss to you; did you?

A. Well, several times I thought it did not pay.

Q. Well, why did you keep it up?

A. Well——

Q. You didn't keep up anything that didn't pay, did you?

A. No, but then you take another shot at it, as the saying is.

Q. In the long run it paid, didn't it?

A. It would, if I had kept my agency right along.

Q. Well, now, how about this bicycle you bought, and you said you gave a prize of a bicycle, $15? Did you get anything from the company for prizes that were given by you about that time?

A. No, sir.

Q. When did you get this $46—now, when did you get this $70 prize?

A. That was before that, quite a while.

Q. Did you get any money prize after that? Was that the last one?

A. I think so; yes, sir. No, let's see, there was this fall, or just the last of December, I got a card that they was offering a dollar for every boy that I would get when he sold forty copies. And I believe there were three or four of those here just in December.

Q. Three or four of those?

A. Yes, sir.

Q. Just recently?

A. Yes, sir.

Q. And prior to that you had gotten about $46 for getting boys?

A. I think that was before I got the $70 prize.

Q. That was before you got the $70?

A. Yes, sir.

Q. You got the $46 for getting boys?

A. Yes, sir.

Q. Now, when you say "for getting boys," would the Curtis Publishing Company assist you by advertisements and by circularizing the schools, and that sort of thing, in order to get boys?

A. Not at that time; no, sir. Well, they did put some want ads in the paper at different times—I think maybe two, anyway two different times—that is, two different seasons, and I think three times each time, if I remember right—little want ads in the want column.

Q. And they paid for those?

A. They paid for those, yes.

Q. And did the road men, traveling men of the Curtis Publishing Company, help you in any way in getting boys?

A. Well——

Q. Did they see the school people?

A. No, they did not see the—I didn't know about them seeing the school. We don't know what they do, and when they come there they are out working and they are gone. I suppose——

Q. These boys would come in and ask you about the road man?

A. Well, I don't know that I ever had any boys that came direct to me and told me that when he came, although I have asked sometimes when the road man was in if anybody wants to see them, but I never found any yet.

Q. Now, when you say you got $46, and since that

other payment of a dollar apiece for getting new boys, just what would you do to get the boys?

A. Well, I went out and went around the schools, and asked the boys, "What are you doing?" And then I have taken boys that I had that were selling magazines for me, and I would give them prizes to bring in new boys.

Q. And you would go around to the schools, and did you see the boys there, or the teachers?

A. I saw the boys. I never went to see——

Q. Never saw the teachers?

A. One time I had a teacher—one summer I had a teacher write and get the names and addresses of every boy from the fourth grade up to the eighth in all the schools, and their father's names—cost me about $37.

Q. That was from a teacher?

A. No, I had a teacher do it for me. I got a teacher, hired her to do it.

Q. Was that for the purpose of getting boys for the Curtis publications?

A. Yes, I give that——

Q. Just wait one minute, will you? I want to ask a question. Was that for the purpose of gettings boys to sell the Curtis publications?

A. Yes, sir.

Q. Go ahead.

A. Well, and I gave Mr. Douglas that list when we had our convention at Indianapolis.

Q. Yes?

A. And the Curtis Publishing Company, I think, paid me ten or twelve or something like that dollars, but it cost me some thirty-odd dollars to get it.

Q. Well, then, do I understand you to be testifying that you paid out more money than you made out of this agency?

A. No, I don't think so. I really never kept any

---

Q. Then you are testifying that you spent so much and you got so much less back. That was not a loss to you, was it?

A. Well, no, it might not have been a loss, but——

Q. You got it all back in other ways, didn't you, in increased business?

A. Increased business. I kept—I don't know as it was increased, but it kept where it was, anyway. If I had not done so it would have went down on me.

Q. You were not asked to spend any of this money, were you?

A. No, sir.

Q. You did that voluntarily?

A. Yes, sir.

Q. And at the time you did it you did it with the idea that it would increase the sales, didn't you?

A. Yes, sir.

Q. Therefore——

A. Or keep it up where it was.

Q. Yes, and therefore increased or maintained your business?

A. Yes, sir.

Q. And that would have been profitable to you; isn't that true?

A. Well, in that way, yes.

Q. Yes. When you went to the schools and saw these boys, did you distribute to them any literature published by the Curtis Publishing Company—any papers?

A. No.

Q. Or circulars?

A. I had bills printed myself at times and handed to them.

Q. Well, as to the boys that afterwards came in the

Curtis League of Salesmen—you know what that is, don't you?

A. Yes, sir.

Q. Did you from time to time distribute to them any publications?

A. Yes, sir.

Q. Devoted to the boys' sales?

A. I got books from the Curtis Publishing Company, "How to Sell a Hundred Copies." I always kept a supply of those, and I always give to every new boy—and I always give them their voucher book—every new boy I would get I would give him a voucher book.

Q. Did you, in the line with the publication of "How to Sell a Hundred Copies" instruct the boys about the Curtis publications?

A. Yes, sir.

Q. And you followed the general lines laid down in the instructions of the Curtis Publishing Company outlined, didn't you?

A. Yes, sir.

Q. You received at various times yourself from the Curtis Publishing Company a publication called "District Agent" and various other publications?

A. Yes, sir.

Q. They all related to the sale by boys?

A. Yes, sir.

Q. Through you, and the boys' co-operation?

A. Yes, sir.

Q. Of the Curtis publications?

A. Yes, sir.

Q. You received those regularly, didn't you?

A. Yes, sir.

Q. Periodically?

A. Yes, sir.

Q. Did you ever offer any prizes to the boys for selling other magazines than the Curtis publications?

A. No, sir.

Q. What?

A. No, sir.

Q. And these—what you called "Sales Schemes," in your direct testimony, were the schemes that were outlined by the Curtis Publishing Company and its representatives, that you have just been testifying about; isn't that a fact?

A. Not necessarily, no, sir.

Q. They included also your independent ideas?

A. Yes, sir.

Q. And weren't those schemes by you independently put through in most instances, suggested by the Curtis methods and by the Curtis men?

A. Well——

Q. They suggested your calling meetings, and so forth, didn't they?

A. I have been called up on long distance telephones—by one of their district men—traveling men, telling me he was going to be there on a certain day, and asking me if I could have the boys there.

Q. Yes. Now, what—do you know the meaning of the words "Ten Club Treats"——

A. Sir?

Q. Do you know anything about the "Ten Club Treats"?

A. Well, they had a Ten Club at one time, quite a while ago. They have abandoned that, I believe, now.

Q. When was that?

A. Well, they have a meeting once a week, or once a month—I forget exactly. And then we always treated the boys, took them to the show, or give them a little banquet, something like that.

Q. A little supper?

A. Yes, sir.

Q. And then the theatre?

A. Yes, sir.

Q. And who paid for that?

A. Well, we did. And I believe that they allowed us ten cents a month, or something like that, if I remember that, to help pay for it, I believe for each boy that attended, for each boy that was a member.

Q. Now, weren't you always reimbursed in full for the sums that you spent or expended for these "Ten Club Treats" as they call them?

A. Well, unless we spent more than they—than the ten cents, I believe it was.

Q. Well, they didn't allow you—what do you mean—ten cents to take a boy to the theatre and give him his supper?

A. Well, motion pictures.

Q. I am talking about the times that you spoke of when you had meetings and you took the boys to the theatre, and you gave them a little supper. Now, who paid for that?

A. I did.

Q. Did you ever get it back?

A. Only that ten cents per boy, that much of it back.

Q. Only ten cents per boy?

A. I believe that was the price.

Q. You must have considered that the business of selling the Curtis publications was very valuable to have expended all that money on them, didn't you?

A. Well, I don't know. I have been around boys always, and worked them always, and I always went the limit with them.

Q. Well, you found it profitable to you, didn't you?

A. I couldn't help it.

Q. You found it profitable?

A. Well, it is profitable to have the boys on your side, I will say that. If you have got boys working for you you better not get them against you.

Q. Well, weren't all these treats and these supper

parties, weren't they all supposed to be for the Curtis Publishing Company publications?

A. Well, they were directly for them. There wasn't any other.

Q. Directly for them?

A. Anything else mentioned because they were Ten Club boys. They had to sell ten "Posts" or so many "Country Gentlemen," or so many "Journals," before they could belong to the Ten Club, and there wasn't nobody there but the Ten Club members.

Q. Yes. About how many boys would you have at those banquets or suppers?

A. Well, I forget.

Q. As many as a hundred?

A. I forget.

Q. A hundred and fifty?

A. Oh, no, there wasn't more than ten or fifteen.

Q. Oh, at these Ten Club treats?

A. Yes, sir. I forget the number. It has been quite a while—two or three years, since that has been worked.

Q. What was the League of Curtis Salesmen?

A. Well, you had to sell so many "Posts" and so many "Journals" and so many "Country Gentlemen" —I forget the exact figure on that.

Q. But after a boy sold so many copies he became a member, didn't he?

A. Yes, sir.

Q. And then when he sold another additional number of copies he became a master salesman?

A. Yes, sir.

Q. And then after he sold a greater number, then there was a higher grade?

A. Yes, sir.

Q. What was that grade?

A. Well, master salesman, I believe, is the highest.

Q. He became an expert?

A. Expert salesman, that is right.

Q. Expert salesman?

A. Yes, sir.

Q. And those increases took place from one grade to another, weren't you paid something?

A. Well, I never got anything.

Q. Well, I am asking you, weren't you paid something when each increase took place?

A. Well, I never have had any that I——

Q. You never have had that?

A. I believe there is an offer like that.

Q. Oh, I see. I see. I understand. In other words, you never got any boys to go into that—those higher grades?

A. That strong.

Q. I see.

A. No, I never got any.

Q. I see. Now, at the time that you gave these prizes that you speak of—this bicycle—I think that was the only one—the Curtis Publishing Company also furnished other prizes of various kinds to the boys, didn't they?

A. Not that time.

Q. Well, at other times then, they furnished?

A. Other times they furnished some other prizes.

Q. Other prizes, and what were those prizes for? What did they consist of?

A. Well, they were different. The first one, that would get the first prize, would get a certain article, and so on, and the second prize, so on down.

Q. What was the prize for?

A. The largest increase in a certain time of the "Post" counted so many points, and the largest increase in a certain time with the "Journal" counted so many points, and the largest increase in a certain length of time with "The Country Gentleman" counted so many points, and the boys that had the most points

had the first prize, and the boy that had the next got the next prize, and so on down.

Q. Yes. Any other magazines ever give prizes?

A. No, sir.

Q. Now, Mr. Jefferson, when did you first take on the Curtis publications?

A. The first time?

Q. Yes. Do you remember when?

A. I can give you the exact date in a minute.

Q. Well, just about.

A. I can give you the exact date here. (Witness refers to document.) In West Terre Haute it was on December 14, 1912. I suppose in Terre Haute the same. Let's see. Wait a minute now. The third day of October, 1912.

Q. Yes. It was in the fall of 1912?

A. Yes, sir. That is the first.

Q. Then you continued since that time up to very recently?

A. Yes, sir. That was the first contract I made with them.

Q. Yes, I understand. At that time, Mr. Jefferson, how long had you been in business?

A. September.

Q. Since September, 1912?

A. This was signed then. I don't know whether they started on that date or not, though.

Q. The Curtis magazines and periodicals were about the first you ever handled?

A. No, I handled all the Chicago papers.

Q. I mean, of magazines.

A. No, I started to buy from the Indiana News Company.

Q. What did you buy?

A. Well, I don't know. The current numbers that came the last of September.

Q. And you handled the Chicago newspapers?

A. Yes, sir; St. Louis, Chicago and Indianapolis.

Q. Now, the magazines you got from the American News Company, you sold those to retailers and to what you call re-wholesalers; what did you get for them?

A. The fifteen-cent magazines we paid eleven cents for and sold them, re-wholesaled them at thirteen.

Q. Were you handling "Pictorial Review"?

A. Yes, sir. Well, I give my order——

Q. What did you do when you took on "Pictorial Review"?

A. You mean direct agency?

Q. No, when you first ordered.

A. From the Indiana News Company?

Q. Yes.

A. Well, whatever was the first issue out of the middle of September there.

Q. Well, did you have the "Pictorial Review" or the Curtis publications first?

A. Well, I had a lot of magazines coming from the Indiana News Company before I commenced to get "The Saturday Evening Post," "Country Gentleman" and "The Ladies' Home Journal."

Q. But you were asked the question whether you handled "Pictorial Review" prior to the Curtis contract?

A. Yes.

Q. I want to know how do you know that? You are not sure of that, are you? What date did you take on "Pictorial Review"?

A. Well, the issue that came out in September or October.

Q. September or October?

A. Yes, sir.

Q. And you signed a contract with the Curtis people early in October?

A. Yes, sir.

Q. Then you might have signed that contract before you commenced to sell "Pictorial Review"; is that a fact?

A. Well, it could have been signed.

Q. Well, it is immaterial. And the "Pictorial Review" at that time and up until very recently you got from the branch of the American News Company?

A. Yes, sir.

Q. You didn't get it direct from the publisher?

A. No, sir.

Q. That was not until this fall, this last autumn or late in the spring?

A. Whenever they went independent. I forgot when that was.

Q. Until just recently. And when you got the "Pictorial Review" from the publisher you paid nine and three-quarter cents?

A. I think that is the price.

Q. Well, that is the price. That is what you really pay for it when you deducted the certain bonuses and certain percentages that were allowed, is it?

A. From the "Pictorial Review"?

Q. Yes, sir.

A. I never received any bonus from him.

Q. Haven't you been allowed ten per cent. commission?

A. There have been offers up but I never got any.

Q. Did you always pay in actual money nine and three-fourths cents to the "Pictorial Review"?

A. Yes, sir; they are billed to me at nine and three-fourths. There have been no discounts for anything. Of course, those that I don't sell I don't have to pay for them.

Q. Those that you don't sell you don't pay for?

A. No, sir.

Q. You return them?

A. Yes, sir.

Q. You say you got four hundred and fifty now?

A. Yes, sir.

Q. About how many of those do you sell?

A. Well, I don't know.

Q. On the average?

A. I don't think I have over five or six or seven per cent. of them left.

Q. Now, you spoke of your increase in sales from seventy to four hundred and fifty.

A. Yes, sir.

Q. Seventy when you got them through the News Company.

A. Yes, sir; along about seventy, in the neighborhood of seventy.

Q. Well, I am speaking approximately.

A. Yes.

Q. And then it increased to four hundred and fifty when you took the direct distribution?

A. Yes, sir. The first shipment was only three hundred.

Q. Was that due to the fact that they were no longer distributed through the American News Company?

A. The American still buy them direct.

Q. Well, was not the increase that you testified to from about seventy to about four hundred and fifty due to the fact that you were handling them direct from the publisher, and that the distribution they formerly had was through the American News Company and Indiana News Company; now, isn't that a fact?

A. Well, no; the increase that I got from the American News would not make that large difference because the dealers that were buying from the American News Company were not buying enough to make up the difference between seventy and four hundred and fifty. I think the dealers are selling more. Not only

that, other dealers that I was charging thirteen cents for are selling a few more.

Q. Didn't you say there are forty retailers?

A. Yes, sir; in the neighborhood of forty.

Q. Didn't you say that the Indiana News Company now serves only about eight or ten of them?

A. Well, they don't serve eight or ten "Pictorial Review" customers, no. They are only serving two, not over three at the very most.

Q. Well, the retailers don't buy their "Pictorial Reviews" from the Indiana News Company?

A. The Union News Company.

Q. They have one at each railroad station?

A. Yes, sir.

Q. The other thirty-nine dealers do not buy their "Pictorial Reviews" from the Indiana News Company now?

A. No, they are buying them from me.

Q. And before you commenced buying direct from the publisher they did obtain the "Pictorial Review"——

A. About eight of them——

Q. ——From the Indiana News?

A. About eight of them, I think, were getting from the Indiana News Company, and the rest were getting from me.

Q. The rest were getting from you?

A. Yes, sir.

Q. They could get them at a lower price from the Indiana News Company than they could get from you?

A. Yes, sir. I delivered them for eleven cents f. o. b. their store, and they got them eleven cents f. o. b. Indianapolis.

Q. And where they would buy from you it would be near the railroad?

A. Yes, they were the nearest downtown. In the outlying districts they didn't buy anything.

Q. Is the Indiana News Company a branch of the American News Company?

A. Yes, sir.

Q. Now, Jefferson, in regard to the seventy copies that you said you were getting from the Indiana News Company of the "Pictorial Review" before you commenced getting it direct from the publisher, which you said you re-wholesaled——

A. Yes, sir.

Q. ——you sold a great many of those at retail?

A. Not very many.

Q. What per cent.?

A. I never kept any record.

Q. Would it be fifty per cent.?

A. Oh, no; maybe four or five copies.

Q. Did you have a retail store?

A. Yes, a little store.

Q. What was the character of your store?

A. Store, it was started for nothing but wholesale.

Q. No, but the, what was it, just a newspaper store, is that all?

A. Yes, sir; and candy; no cigars or tobacco or anything that way. I started on tobacco and cigarettes and little fellows started to buy cigarettes from me, and I didn't like it, and I closed it out.

Q. Did you have a retail news stand?

A. Yes, sir; in the store; it is in the Hippodrome vaudeville house.

Q. A very prominent place?

A. Yes, sir. At that time I was not in that place. I was further up the street, and only did two-thirds as much.

Q. But it was a good location?

A. Yes, but I don't think over two per cent.

Q. Four or five "Pictorial Reviews"?

A. The chances are I wouldn't sell that many at that time.

Q. Did you sell any other magazines at retail to any extent?

A. No, not then. Since then, since we got down to this location the retail trade has grown like——

Q. Later your retail trade has grown a great deal?

A. Yes, sir.

Q. And I suppose the four hundred and fifty "Pictorial Reviews" that you are now getting are sold at retail?

A. Oh, no; maybe fifteen or twenty.

Q. Fifteen or twenty, is that all?

A. Yes, sir.

MR. WELCH: That is all.

MR. DALY: That is all.

(Witness excused.)

---

RICHARD E. GARDNER, called as a witness on behalf of the Commission, having been first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Will you give your full name and address, Mr. Gardner?

A. Richard E. Gardner.

Q. Where do you reside?

A. South Bend, Indiana.

Q. How large a place is that?

A. About seventy thousand.

Q. What is your occupation?

A. News dealer.

Q. How long have you been engaged in it?

A. Since October 1, 1911.

Q. Are you a wholesale news dealer?

A. Yes, sir; and retail.

9333

Q. How many other wholesalers are there?

A. None.

Q. How many retailers are there?

A. I should say forty-five, offhand.

Q. How many of them do you serve?

A. All of them.

Q. What equipment have you for delivering magazines?

A. I have a truck and boys with bicycles. Occasionally I hire an extra rig, a horse and wagon.

Q. When did you begin business, Mr. Gardner?

A. October 1, 1911.

Q. What magazines do you handle?

A. Do you want me to call them all off?

Q. Yes, give the names of them; yes.

A. "Saturday Evening Post," "Country Gentleman," "Ladies' Home Journal," "Collier's," "Literary Digest," Warner publications, motion picture magazines and "Classic," and the Hearst group, "Jim Jam Jems."

Q. Do you handle the "Pictorial Review"?

A. In a way.

Q. In what way?

A. I am putting it out and collecting for another party.

Q. Who is that?

A. B. M. Koszewski.

Q. How do these "Pictorial Reviews" reach you?

A. They are sent by mail to the post office in his name, and as a rule he tells me when they are over there, or if we are there and discover them they are brought over to my office.

Q. Why are they sent to this man instead of you?

A. I had refused the "Pictorial" agency and hadn't intended handling it. Mr. McMurray came into the town and wanted to know if I would handle it, and I said I had turned it down. He wanted to know if

there was any other news dealer or agency that he could interest, and I told him to go over to the main corner and see the other man, this Koszewski, that I spoke of, and he went over and saw him and came back and said that he had arranged with him to handle the agency, and wanted to know if I could put them out for him as he had no method of delivery, and I studied it over a while, and I think I told him the following day that I would put them out for him.

Q. How many copies do you handle?

A. "Pictorial Review"?

Q. Yes.

A. Five hundred.

Q. You are under contract, are you, with the Curtis Publishing Company?

A. Yes, sir.

Q. Do you know about the date of that contract, about the time?

A. The present contract?

Q. The contract that you are operating under; yes.

A. July 3, 1913.

Q. Are you familiar with the terms of the contract?

A. Yes, sir.

Q. Do you know what Section 13 is?

A. I have reason to believe that it is a clause prohibiting us from handling other magazines without first obtaining consent from the Curtis Company.

Q. Did you ever try to get the consent of the Curtis Publishing Company to handle any magazines?

A. I have.

Q. Name those instances.

A. I think it was when "Collier's" was offered me.

Q. When was that time, about when?

A. I think the first case was when the Hearst people offered me——

Q. Well, what did you do then about taking on the Hearst papers or magazines?

A. I wrote the Curtis Company first.

Q. Well, what did they do?

A. I think they gave me permission, as I recall it.

Q. Now, then, the next instance.

A. I just don't recall whether it was "Collier's" or not.

Q. Well, give the instances; it doesn't make any difference whether you have them in rotation.

A. I know I have written them two or three times and they always gave permission.

Q. Did they ever refuse to give permission?

A. Well, in the case of the "Pictorial."

Q. Did you try to make arrangements direct with the "Pictorial Review"?

A. The "Pictorial Review."

Q. The "Pictorial Review"?

A. The "Pictorial Review."

Q. Will you look at that telegram (telegram handed to witness)?

A. Yes, sir.

Q. Did you send that telegram?

A. I think I did.

Q. Telegram dated February 22d?

A. Yes, sir.

Q. Do you know what year that was; last year, was it?

A. Last year, I think.

MR. DALY: Any objection?

MR. WELCH: Not any.

MR. DALY: We offer the telegram in evidence.

EXAMINER MOORE: The telegram is admitted in evidence without objection.

(The telegram was received and marked

"Commission's Exhibit No. 97," the same being in words and figures as follows, to wit):

COMMISSION'S EXHIBIT No. 97.

(On Western Union Telegram form.)

"Received at 1450 Broadway, New York.
62-6NYN 11 Collect
South Bend Ind Feb 22 427P
110
B. A. Mckinnin Circulation Mgr
Pictorial Review Co 216 West 39 St NY
I want agency but await Curtis reply before making decision.
R. E. GARDNER.
602P"

By MR. DALY:

Q. Now, in that telegram you state that you took the matter up with the Curtis Publishing Company.

A. Yes, sir.

Q. Of the handling of the "Pictorial Review"; did you do that?

A. I did

Q. How did you do it?

A. By mail.

Q. Now, you didn't take it on, did you, the "Pictorial Review"?

A. I did not; no, sir.

Q. Will you look at a letter to the "Pictorial Review," dated March 3, 1917 (handing document to witness); did you write that?

A. I did.

Q. And send it to them?

A. Yes, sir.

(Paper handed to Mr. Welch.)

MR. DALY: We offer this letter, dated March 3, 1917.

EXAMINER MOORE: The letter is admitted without objection.

(The letter was received and marked "Commission's Exhibit No. 98," and is in the words and figures as follows, to wit):

COMMISSION'S EXHIBIT No. 98.

(On letterhead Gardner News Agency.)

"March 3rd, 1917.

The Pictorial Review Co.,
New York City.
Gentlemen:

Answering your letter of the 27th, I am sorry to have to say that I cannot accept the agency for your publication at the present time. I have figured the proposition both ways and it is to my interest not to give the Curtis people cause to pull, which they advise me they would do if I accept yours.

Pictorial Review is outselling the Journal on my own stand about 140 against 90 the last issues. I know pretty well how Curtis would be most apt to fare if they were not located with the wholesale news dealer in the larger cities. I also know which way the wind is blowing and that I cannot afford to let one publisher dictate the limitations of my business.

My advice to you would be to talk Mr. E. A. Scholz into your plan of action for his publications and then we will do business.

Respectfully yours,

(Signed) R. E. GARDNER."

(Exhibit No. 98 bears the following rubber stamp):

"Received
Main Office
Mar 4 1917
Answered."

By Mr. Daly:

Q. Will you look at a letter from you to the Curtis Publishing Company, dated March 3, 1917 (document handed to witness)?

A. Yes, sir.

Q. Did you send that letter to them, informing them of your decision?

A. I did, sir.

(Mr. Daly hands paper to Mr. Welch.)

Mr. Daly: We offer this.

Examiner Moore: The letter is admitted without objection.

(The letter was received and marked "Commission's Exhibit No. 99," the same being in words and figures as follows, to wit):

Commission's Exhibit No. 99.

(On letterhead of the Gardner News Agency.)

"March 3rd, 1917.

The Curtis Publ. Co.,
Philadelphia, Pa.
Gentlemen:

Answering your letter of March 1st. After thinking things over for some time I intend to refuse the agency for Pictorial Review.

As you possibly know an agent's expenses in a town of this size has increased very largely in the past three years. My rent has jumped, my pay-roll is fifty per cent. higher, my delivery expense is considerable more and my own living away above what it was. Since it is not within our power to raise our profits per copy we must increase our volume. In the case of newspapers we have done this, in some instances 100%. The magazines, and especially yours, have about the same circulation they did. I could handle several more agencies without very much additional ex-

pense and consequently make more net, but as it is I sometimes question whether it pays me enough to continue.

For the present, as I say, I am content to keep on with what I've got in the hope that conditions will break for the better.

Respectfully yours,

(Signed) R. E. GARDNER."

(Exhibit No. 99 bears the following rubber stamps):

"Received "Answered "R 68" "Mar 5 1917"
Mar 5 1917 Mar 6 1917
F. M. B." M. E. D."

"Daily Mail "Mar 5 1917 "R 68" "Mar 5 1917"
Mar 5-1917 Daily Mail K"
Scatter"

"Daily Mail "Mar 5 1917
Mar 5-1917 Daily Mail K"
Scatter"

By MR. DALY:

Q. Will you look at this telegram (document handed to witness)?

MR. DALY: I have them a little mixed.

By MR. DALY:

Q. Did you send that?

A. I think I did.

Q. To the Curtis Publishing Company?

A. Yes, sir.

MR. DALY: We offer this letter, this telegram, rather, dated February 28, 1917.

By MR. DALY:

Q. And will you look at that telegram from the Curtis Publishing Company to you (document handed to witness)? Did you receive that?

A. I did, sir.

MR. DALY: We offer this telegram in evidence.

EXAMINER MOORE: Both telegrams may be received without objection.

(The telegrams were received and marked "Commission's Exhibit No. 100," and "Commission's Exhibit No. 101," and the same are in the words and figures as follows, to wit):

COMMISSION'S EXHIBIT No. 100.

(On Postal Telegraph Telegram form.)

"60P G 12 305P
South Bend, Ind., Feb. 28, 17.

Curtis Pub Co., Phila, Pa. Cir. Dept
Can I have pictorial review agency to adult dealers only wire collect.

R. E. GARDNER."

(Exhibit No. 100 bears the following rubber stamps):

"Answered "Received
Telegram Desk
Feb 28 1917 Sales Division
(Time stamp indicating 10.)
Answered" Charges (In pencil) Pd.
28 1917."

---

COMMISSION'S EXHIBIT No. 101.

(On Postal Telegraph Telegram form.)

"February 28, 1917.

R. E. Gardner,
Main & Jefferson Streets,
South Bend, Indiana.

We cannot sanction Pictorial Review proposal. Letter follows.

M. E. DOUGLAS."

(Exhibit No. 101 is a carbon copy of telegram.)

By MR. DALY:

Q. Will you look at a letter dated March 1, 1917, from the Curtis Company to you, and also one dated March 7, 1917, from the same company to you. Did you receive these letters?

A. I did, sir.

MR. DALY: We offer these letters.

EXAMINER MOORE: The letters are admitted in evidence without objection.

(The letters were received and marked "Commission's Exhibit No. 102," and "Commission's Exhibit No. 103," the same being in the words and figures as follows, to wit):

COMMISSION'S EXHIBIT No. 102.

"March 1, 1917.

Mr. R. E. Gardner,
Main & Jefferson Streets,
South Bend, Indiana.

Dear Mr. Gardner:

In reply to your telegram dated February 28:

Our mutual interests, yours and ours in common, will be best served by your not making any arrangement to wholesale the other periodical referred to.

One fundamental fact stands out prominently: There is a limit to the number of periodicals seeking circulation among readers of the same class, which a District Agent can handle without taking on the limitations of a branch of the news company. We have District Agents because we need representatives free from such limitations. You are our valued representative because you have heretofore been free from such limitations.

That you may get our exact shade of meaning, let me quote from a letter recently mailed to a Curtis District Agent in another state, of whose loy-

alty to us we were not wholly confident as we are of your loyalty. In that letter to the other District Agent we said:

> 'If you were to undertake it (wholesaling the other periodical mentioned), directly or indirectly, we should wish to cancel your arrangements with us.'

There is nothing temporary or uncertain about our policy of continued direct supplies to District Agents, including you, in accordance with our contracts, and we believe our mutual interests, yours and ours alike, will be best served by the maintenance of methods and policies above mentioned.

At your convenience in the course of a few days, we shall be very glad to have you tell us what is your preference with respect to the continuance of the very pleasant relations which has so long existed between us.

We are much interested in any increased local effort for larger sales of THE COUNTRY GENTLEMAN, and are willing and anxious to pay handsome, liberal bonuses for increases in net sales of THE COUNTRY GENTLEMAN during months to follow.

With kind personal regards.

Very truly yours,

THE CURTIS PUBLISHING COMPANY.

*District Manager.*

Dictated by
MED BHL"

(Exhibit No. 102 bears the following rubber stamp):

"Refer to
Mr. Douglas."
(In pencil) "Mar. 13"

COMMISSION'S EXHIBIT No. 103.

"March 7, 1917.

Mr. B. E. Gardner,
The Gardner News Agency,
Main Street and Jefferson Blvd.,
South Bend, Indiana.

Dear Mr. Gardner:

Your decision with respect to The Pictorial Review is most gratifying to me personally and of course highly appreciated by all of us. Really, it is an inspiration to see the splendid loyalty and spirit of cooperation manifested by all of our District Agents in this matter.

THE COUNTRY GENTLEMAN offers you splendid opportunities to increase your volume of business and profits at this time.

We yesterday requisitioned an edition of 527,000 copies of THE COUNTRY GENTLEMAN dated March 17—more than a half million copies—and may have to add to it within a day or two.

Our COUNTRY GENTLEMAN bonus payments to District Agents are mounting skyward. We hope you will get a liberal share of them from now on.

Very truly yours,
THE CURTIS PUBLISHING COMPANY.
*District Manager.*

Dictated by
MED SM"

(Exhibits Nos. 102 and 103 are carbon copies.)

By MR. DALY:

Q. And you were handling the "Pictorial Review" in the way that you describe?

A. Yes, sir.

Q. Who was it you said made this arrangement; who was it you made this arrangement with, talked

with, from the "Pictorial Review," this arrangement about handling?

A. Mr. McMurray; W. J. McMurray.

Q. Who is he, do you know?

A. I think he represents, or did represent the "Pictorial Review."

Q. Now, what other instances, if any there may be, where the Curtis Company refused you permission to handle a magazine?

A. No direct evidence. I remember of asking their roadman—I don't just remember which one it was—if I could have the "Every Week" agency, and I was told that the Curtis Company objected, so I had no communication with them direct on it.

Q. Did you take on "Every Week"?

A. No, sir.

Q. Because of that objection?

A. Yes, sir.

Q. Does the American News Company do business in your town?

A. Yes, sir.

Q. How does it distribute its magazines?

A. Through the Western News Company of Chicago, and the Indiana News Company of Indianapolis.

Q. Where are they located? Are they located in your town?

A. They are not located in our town.

Q. How does the dealer get his magazines from the American News Company?

A. By express and mail.

Q. Do you know who pays that express?

A. The dealer does.

Q. Do you know how many dealers they cover?

A. Probably thirty.

Q. How many altogether are there?

A. About forty-five.

MR. DALY: That is all.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. You began the magazine wholesaling business with the Curtis people, didn't you?

A. I did.

Q. And after you started with them you gradually got other magazines?

A. Yes, sir.

Q. And built up your business on that style, is that correct?

A. Yes, sir.

Q. How many copies of the "Post" do you handle?

A. I think my order, my last order, was seventeen hundred and fifty.

Q. Seventeen hundred and fifty; and of the "Journal"?

A. The "Journal," about a thousand.

Q. And "The Country Gentleman"?

A. Two hundred and eighty.

Q. Two hundred and eighty. Do you do a retail business as well?

A. Yes, sir.

Q. In the letter which is marked "Commission's Exhibit No. 98," you said that you were selling from your stand about one hundred and forty "Pictorial Reviews" as against ninety of the "Journal."

A. That was of that one particular issue.

Q. That would be your retail stand?

A. Yes, sir.

Q. And you were also selling both wholesale and retail, both the "Post" and the "Journal"?

A. Yes, sir.

Q. The "Post" and "The Country Gentleman" in addition to the "Home Journal"?

A. Yes, sir.

Q. How many boys have you?

A. All told?

Q. Yes.

A. From one hundred and fifty to one hundred and seventy-five.

Q. And have the Curtis Company aided you in getting any of these boys, or did they turn over any to you?

A. I think they turned over to me about twenty-five. I have now about sixty that I am reporting on, about seventy-five boys that are buying copies.

Q. And in that increase you worked in conjunction with the Curtis road men, have you not?

A. Yes, sir.

Q. They have furnished aid and you have done your part?

A. Yes, sir.

Q. What have you done with reference to these so-called Curtis boys?

A. I have merely given them good service.

Q. And——

A. A centrally located place of business that they could get their copies easily, and I have encouraged them and talked with them in an effort to promote their sales.

Q. And their sales have increased, have they?

A. Yes, sir.

Q. Have you, did you, or did the district Curtis man take the school situation up and the parents? Have you done any work with the parents and the schools yourself?

A. No, sir.

Q. Have any of your boys succeeded to expert or master salesmen?

A. I think there is one boy that is a master salesman.

Q. And for that you received a certain bonus?

A. I think I did.

Q. Have you competed in these prizes?

A. Yes, sir.

Q. In these prize competitions?

A. Yes, sir.

Q. In competing in these competitions you stir up the circulation, that is the aim and effect?

A. I think that is the aim; yes, sir.

Q. Were you successful?

A. Indirectly, yes. I have never received any outright, direct prize myself that I remember of.

Q. If it increases the circulation it increases your business and the Curtis business, doesn't it?

A. Yes, sir.

Q. You said that you had instructed these boys. Have you held meetings, conferred with them and had meetings with the district man when he came around?

A. I have never held any meetings myself. The road men have at times held meetings, called meetings, which I attended.

Q. Your contract under the operation of—in the Ten Club Treats, do you remember them?

A. Yes, sir.

Q. And those were—you took care of that?

A. Not personally; no.

Q. That was done by the road men in your instance?

A. The road men, and I had a man hired to take charge of those meetings. It only lasted a short time.

Q. When you had a man hired you participated in the meetings to that extent?

A. I did.

Q. He represented you in getting it up?

A. I did.

Q. Do you know how many of your boys belong to the Curtis League?

A. No, I do not.

Q. With reference to the giving of prizes and the efforts made along the line of the Ten Club Treats, is this done by any other magazine?

A. No, sir.

MR. MILBURN: That is all.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. Just another question or two. Mr. Gardner, I am not just clear how you were compensated for giving instruction to these boys that you have testified about; just what did you get?

A. I received nothing except a commission on the sale of the magazine.

Q. Now, you say that you hired a man to help in the meetings; did you pay the expenses of that man?

A. Yes, sir.

Q. Or did Curtis Company?

A. I paid him.

MR. DALY: That is all.

(Witness excused.)

---

MAX ANNENBERG, called as a witness on behalf of the Commission, having been first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Give your full name and address, Mr. Annenberg.

A. Max Annenberg, 7 South Dearborn Street, Chicago, Illinois.

Q. What is your occupation?

A. Manager of the circulation department of the "Chicago Tribune."

Q. How long have you been that manager?

A. Eight years next June.

Q. Did you say how long you have been manager of the "Chicago Tribune," circulating manager?

A. I stated it will be eight years next June.

Q. What were you prior to that?

A. Circulation manager of the Hearst newspapers here in Chicago.

Q. How long did you engage in that occupation?

A. I was employed by the Chicago Hearst newspapers in June, June 22, 1900, and remained there until June 22, 1910. I became circulation manager of those publications in February, 1906. Prior to that I was assistant circulation manager and held inferior positions in the circulation department, such as street man, traveling man, branch man, and so forth.

Q. In what way do you distribute the "Chicago Tribune" throughout the country, Mr. Annenberg?

A. We sell them to news dealers, who pay a rate. The news dealer wholesales them at another rate, and the difference between our rate and what he gets for the paper is his compensation for his services.

Q. About what States do you cover?

A. We cover primarily the States of Illinois, Iowa, Indiana, Michigan and Wisconsin.

Q. The circulation through these States is through these news dealers?

A. Yes, sir.

Q. Will you describe the character of the business of these news dealers that you circulate your paper through?

A. What we call a wholesale news policy. In some States he has a store. That will constitute either a book store, periodical store, candy store, drug store, some agents have no other line of business other than the newspaper business and the magazine business. They are supplied by the various publications that

come into that city, regardless of what they may be, magazines, periodicals, newspapers from all over the country, and they in turn distribute them to their sub-dealers and newsboys in that city or town.

Q. Are you familiar or not with the wholesale dealers' situation from your experience as being circulation manager?

A. I think I am.

MR. WELCH: I object to that question as indefinite and immaterial to this issue.

MR. DALY: Well, I will withdraw it.

By MR. DALY:

Q. Now, do you know how many of these wholesale dealers were put in business, Mr. Annenberg?

MR. WELCH: Put in business; what kind of business?

By MR. DALY:

Q. Newspaper business, as wholesale dealers?

A. Well, beginning in nineteen—about 1906 the Chicago newspapers began to consolidate their business in the larger——

MR. WELCH: I object to this aswer as not responsive to the question. He was asked whether he knows how many of the men are in business and he is starting to give something else.

MR. DALY: Read that question.

(Last question read.)

By MR. DALY:

Q. If any. Just change that question. When did you first arrange with these wholesale dealers about the distribution of any of these papers that you have testified about?

A. About 1906.

Q. Will you describe the arrangements that you made with them?

A. The Chicago papers first arranged among

themselves to have one representative in each one of the large cities in this territory, and then we picked out the best men that we believed could serve the interests. In some instances the "Herald" man was taken; in some instances the "Tribune" man was accepted, and in some instances the "American" man was accepted. All of us at that time had separate and distinct agencies.

Q. Then you had been paying in these different cities——

MR. WELCH: Now, don't lead him.

By MR. DALY:

Q. Well, I will change that. Explain the distribution of these papers.

A. Each one of us had a separate agent, and each one of us was obliged to subsidize him in order that he could make a living out of the business, and even in many cases with our subsidy they couldn't exist, and there used to be considerable confusion and quarrels and troubles between the agents and ourselves, so we fell upon this scheme by combining the agents and giving it all to one man.

Q. In what States did you put this scheme into effect?

A. Particularly in the five States I mentioned, and afterwards it became in vogue everywhere where we circulated.

Q. Outside of those States?

A. Yes.

Q. Now, you have been in touch with that situation, have you, from that time until this?

A. Continually.

Q. Does that condition exist now?

A. Yes, sir.

Q. Are the papers, are the Chicago papers distributed in the same manner now?

A. With the exception, I think, of two, I think two cities, one that was recently broken and one some time ago. The same conditions existed and we have on our books somewhere in the neighborhood of about a little over five thousand accounts. The majority of these accounts are within the five States.

Q. Would there be more than one account with one dealer?

A. Not where we have wholesale agencies, and the majority of them are wholesale agencies.

Q. Then how many wholesale dealers is the "Chicago Tribune" in touch with, about, in these five States?

A. Oh, I should say in the five States, without referring to records, that we probably have forty-five or fifty per cent. of our accounts are wholesale agencies.

Q. Now, how many, as a rule, of these wholesale dealers are in each of the large cities?

A. There is one. There is one, as far as the Chicago newspapers are concerned, and where we come in competition with Detroit, St. Louis, why, then, you may find in isolated cases that the St. Louis or Detroit newspapers have their own people. In isolated cases, I said.

Q. Do you or not know as to how the Curtis publications are circulated?

A. Why——

MR. WELCH: You are asked whether you know.

THE WITNESS: Yes.

By MR. DALY:

Q. I will re-frame that question: Do you or not know how the Curtis Company circulates its publications through wholesale dealers?

A. Yes.

Q. Will you explain that method?

A. Shall I confine myself to the present or the matter that has been circulated in the past years?

Q. Describe the method from the time of the consolidation of these wholesale agencies until now.

A. The Curtis Publishing Company, or sometimes all other publications, circulate through this news dealer organization. There is no method, there was no other method in 1906, particularly at the time that the Curtis Publishing Company, when the Curtis Publishing Company was not as strong in these towns and no one agency in any one of those large cities could they make——

MR. WELCH: Now, I move to strike that out as a conclusion.

THE WITNESS: I think I can prove it by facts.

MR. DALY: Strike that out.

By MR. DALY:

Q. Just give the facts about how the publications are circulated.

A. Well, you take in a city like Des Moines, Iowa, or in a city of a similar size that the Curtis Publishing Company had five hundred or six hundred or a thousand copies a week coming in there and had to distribute through the city by every newspaper dealer and the boys, and the only pay——

MR. WELCH: I move to strike that out. I object to this testimony as entirely speculative. He says if the Curtis Company did so-and-so. I move to strike it out as an improper answer, speculative of the witness as to what might happen.

By MR. DALY:

Q. What did the Curtis Company do?

MR. WELCH: Wait a minute. I want a ruling.

EXAMINER MOORE: Anything further on that, Mr. Daly?

MR. DALY: No.

EXAMINER MOORE: The objection is sustained.

By Mr. Daly:

Q. Tell what the Curtis Company did, if you know, with respect to their circulating through these wholesale dealers.

A. Why, they got in on the organization, the same as any other.

Mr. Welch: I move to strike it out as a conclusion of the witness, and not stating any fact, that they got in the wholesale organization.

By Mr. Daly:

Q. State what they did.

Mr. Welch: Well, I move to strike it out. I want to get a ruling.

Mr. Daly: Well, strike that out.

The Witness: They supplied the wholesale agents in these cities, circulated through them, and there was absolutely no restrictions of any kind. The Chicago newspaper men urged them to take on any and all publications.

By Mr. Daly:

Q. You urged the wholesale dealer?

A. Yes, sir. We urged the Curtis Publishing Company to give them their business in some instances, and the Curtis Company urged us to get the news dealers to handle their publications, the idea being to build up the news dealer as long as possible, so that he could make——

Mr. Welch: Never mind what the idea was.

Mr. Daly: Don't give the reasons.

By Mr. Daly:

Q. Was this after you had made this consolidation?

A. Yes, sir.

Q. Now, I am not clear as to how the Curtis Company circulated its publications prior to this organization.

A. Well, I suppose they did the same as we did.

MR. WELCH: I move to strike that out.

By MR. DALY:

Q. No, do you know now?

A. Yes. They picked out a man in each town, and more in some cases, to handle the papers. In some cases that man was a "Herald" man, in some cases an "Examiner," and in some cases it was a man who handled nothing but Curtis.

MR. DALY: That is all.

CROSS-EXAMINATION.

By MR. WELCH:

Q. When these Chicago newspapers all got together in 1906 and centered on one particular man, that put the other men out of business, didn't it?

A. What other men?

Q. The other men that were doing business in the town for various newspapers?

A. In most instances it did.

Q. So that was a combination to put all of the business on one man, and the result of that was that the other men had no business?

A. I can explain that. For instance, we will take Sioux City, Iowa. Prior to that Sioux City, Iowa, had seventy-four accounts, seventy-four men used to receive seventy-four different bundles of papers from the various papers, and the first man that came down to the depot got the first papers, and at the end we didn't get any money for our papers, and considerable confusion followed; and when we put Marshall Brothers in as a wholesale dealer for the Chicago newspapers he merely supplied these seventy-four accounts and they paid a little higher rate than they did heretofore to maintain Marshall as a wholesaler.

Q. So, instead of seventy-four independent dealers there was only one.

A. That is all.

Q. And seventy-three of them had to stop that business?

A. No, they didn't have to stop.

Q. Well, did they do so?

A. No, they didn't. I told you that Mr. Marshall supplied the seventy-four accounts.

Q. But that was an entirely different arrangement.

A. No, it was not an entirely different arrangement, a difference in price. He paid three and they paid four.

Q. Do you mean that the other seventy-three, other than Marshall, were still handling newspapers?

A. Yes, sir; supplied by Marshall Brothers.

Q. Then this getting together of these agents and putting all these wholesale dealers, and putting these papers all in the hands of one man, would cut out all these wholesalers and would prevent the papers from getting into the hands of these other wholesalers?

A. It would, to create one wholesale dealer, a man held the responsibility for those dealers, but did not affect the retail dealers.

Q. How many wholesale dealers were there in the city you spoke of?

A. No wholesale dealer, every one was a wholesale dealer, all seventy-three were getting the wholesale rate.

Q. Were not the seventy-three all wholesalers?

A. Well, they could not have wholesaled if they wanted to.

Q. Now, you know that they could have been wholesalers?

A. They could, if anyone would pay them four cents a copy. I suppose they would supply them.

Q. Wasn't it because seventy-three or seventy-

four wholesalers in one place were handling the papers that you decided upon the scheme of combining?

A. No, that wasn't it. There was a thousand and one reasons.

Q. Well, what was the thousand and one reasons?

A. Well, we couldn't collect our money. There was too much confusion in our accounts, too many accounts. The average newspaper dealer didn't get but ten papers.

Q. Principally a matter of accounts?

A. Oh, I beg your pardon. A matter of service, principally a matter of service.

Q. As a result of your action the seventy-three who previously could buy wholesale had to buy direct from the newspapers?

A. I don't know that any sold at wholesale. Even if they did they could not find anyone who would pay four cents.

Q. That would not be very likely?

A. I doubt if any sold wholesale prior to that. There is no reason why a man should pay four cents to one of these men when he could get his papers at three and a half.

Q. Why do you testify now that there was only one wholesaler in all these places?

A. In answer to Mr. Daly's question.

Q. You say there is one?

A. There is a wholesaler.

Q. Only one?

A. Only one.

Q. Before you went into this scheme of 1906, how many wholesalers were there?

A. That I can't say. There might have been one, two, three.

Q. But more than one?

A. That could wholesale if they saw fit.

Q. How many actually wholesaled?

A. I couldn't say.

Q. Well, there was more than one?

A. That I couldn't say. There might have been one, there might have been one. I can't tell now how many wholesalers there were in Sioux City, Iowa, at that time.

Q. Take Sioux City, that is where you have seventy-three or seventy-four?

A. Yes, sir.

Q. Now, in 1906, how many wholesalers were there in Sioux City?

A. I couldn't tell you now.

Q. Well, about?

A. I couldn't tell.

Q. Well, these seventy-three dealers——

A. Dealers is right.

Q. Wholesale dealers they might have been; how did you distribute the papers to them?

A. Dropped them off at the depot, and they came and got them.

Q. Who?

A. The dealers.

Q. What did they pay?

A. Three and a half.

Q. Every one of the seventy-three came and got them?

A. Yes, sir.

Q. Now, when you drop them who comes and gets them?

A. Marshall Brothers.

Q. And the other seventy-three do not come?

A. No; Marshall Brothers deliver direct to them.

Q. Does he deliver to the seventy-three?

A. Oh, he has more than that; I guess, he has a hundred and fifty or more.

Q. To these wholesalers?

A. We don't look upon them as wholesalers in our office, we have no other account.

Q. But they do wholesale?

A. I don't know. They may or may not. Since Marshall Brothers took over the account I am not in touch with the sub-dealers.

Q. You do not know whether they wholesale?

A. They may be wholesaling.

Q. Then when you say there is one, as far as you know, you don't know whether there are any more or not, but that is the only one, as far as you know?

A. Yes.

Q. I see. Now, in picking out these wholesale dealers you said that they were people, that is, the wholesale dealers before 1906, they were people who had stores, drug stores, candy stores, is that a fact?

A. I said in some instances they had drug stores, and in some instances—— Well, I said before in my answer to Mr. Daly they had drug stores, periodical stores, other business. In some instances they did nothing else but handle newspapers.

Q. A great many of them primarily store people, they had their shops, or drug shop, or cigar store, whatever it might be, all these, but their main business was not newspapers and periodicals?

A. In some cases, yes, and in some cases, no. Taking the City of Milwaukee, they had nothing but the newspaper business and the magazine business, and in other cities similar to that.

Q. What percentage of those men had other characters of occupation and other stores than mere newspaper stores?

A. Oh, I don't know; from the best I can recollect it was about an even break.

Q. About fifty per cent.?

A. About an even break.

Q. Then when you speak of wholesale news dealers as they originally existed you mean about fifty

per cent. of them were stores that merely sold newspapers?

A. And acted as wholesale agents.

Q. Yes, and incidentally they acted as wholesale agents.

A. Correct.

Q. But where a man had a drug store and sold newspapers, his principal occupation and principal source of revenue would be his drug store?

A. True.

Q. The sale of newspapers was merely incidental?

A. True.

Q. Anybody else could have taken up the sale of the newspaper business with equally facility as a drug store man?

A. I suppose so.

Q. Or any sort of store man?

A. I suppose so.

Q. Now, when the Chicago papers got together in 1906, how many states did they cover?

A. Primarily the five states.

Q. And that was afterwards extended?

A. Yes. They first picked the big cities in the five states and then extended it to the smaller cities and to a larger area.

Q. That is outside of the five states?

A. Yes, sir.

Q. About how many states did you cover then?

A. Why, we went into Missouri, Kansas, Nebraska, Minnesota, and we made it a business outside of those states that I mentioned to put our papers in the hands of regularly appointed news dealers who were handling all publications in other large cities.

Q. You covered about—I think you said that was nine states, nine or ten states?

A. Yes, and then I say——

Q. And dealers in other cities—in other states?

A. In other states we gave our business to the dealer who was handling the majority of the publications going into that city.

Q. About how many cities does that approximate —I am not asking for actual figures—about how many cities would that cover?

A. Altogether?

Q. Yes.

A. Cities we circulate in?

Q. Yes.

A. Oh, I should say we circulate probably in—— Can I refer to a little note I have?

Q. Yes, surely.

A. I can make my deduction from this (indicating paper). And probably give you some sort of an answer. (After consulting paper): Oh, I should say between 2500 and 3000 cities.

Q. 2500 to 3000 cities in those——

A. In the United States.

Q. Well, that really means in the nine or ten states?

A. Yes, sir.

Q. Around in this locality?

A. Yes, sir.

Q. You don't pretend to cover in any way the other states?

A. We have an agent in every large city in the United States, almost, with a few exceptions.

Q. And that would be only the large cities in the various states, other than the nine you have mentioned?

A. We supply some newsdealer in almost every large city in the United States with papers.

Q. Well, then, those news dealers, in the large cities, throughout the United States, combined with all the news dealers in all the cities in the various—in the nine states you have mentioned, you say only make 2500 or 3000 cities?

A. Yes, sir.

Q. It must be more than that.

A. No. Not that we supply. For instance——

Q. But you say that the same figure would apply as to men, about 2500 or 3000 men.

A. Well, I don't know anything——

Q. I asked you before about cities.

A. Yes, and in those large cities there are—for instance, in Pittsburgh we supply the same man you supply. That is out of our territory.

Q. How many do you supply in Pittsburgh?

A. One man. The man you supply. The same man the "Post" supplies.

Q. How many of the 2500 wholesalers—2500 or 3000—are located in the city of Chicago?

A. Sir?

Q. How many are located in here?

A. Chicago is excluded from this figure.

Q. Excluded from this figure?

A. Yes.

Q. Well, how many are there in Chicago?

A. Oh, I should think there are 4000 dealers in Chicago.

Q. 4000 dealers?

A. Yes, sir, dealers and newsboys.

Q. I am speaking about dealers.

A. Well, I haven't got them.

Q. Wholesale. Wholesale dealers, that you distribute——

A. Wholesale dealers?

Q. I am speaking about dealers. I am not speaking about men who sell newspapers.

A. Well, we don't differentiate. But I can say there are probably—oh, half and half would be a good guess. About 2000.

MR. DALY: What was that question?

THE WITNESS: He wanted to know how many wholesale dealers there are in Chicago.

By Mr. Welch:

Q. How many do you say?

A. About 2000, I would say, that we supply.

Q. You never at any time distributed newspapers through the American News Company, did you?

A. Yes, sir.

Q. When did you do that?

A. Oh, in the early days when we first started here.

Q. Well, what was the date?

A. Oh, 1900. We supplied them for a couple of years.

Q. Why did you leave them?

A. Oh, we——

Q. Just newspapers you supplied, I presume?

A. That is all.

Q. Why did you leave them?

A. Well, we found they did not have as many accounts as we could get ourselves, and we thought we could do better by going along alone on this. Besides, in a good many places where we had established an agent they would come in and establish also another one after they found we were in the place, and it created a lot of confusion.

Q. They have not the facilities for handling newspapers, have they?

A. They haven't made a practice of handling newspapers out this way for some time. I understand the facilities in the East are perfect to some degree.

Q. But they do not handle newspapers out here in this locality so far as you know?

A. No, I don't think they do, not in this part of the country.

Q. Now, you spoke, Mr. Annenberg, of the Curtis Publishing Company's method of distribution. You say they supplied the wholesale agent in those cities whenever they possibly could; what cities were you referring to then?

A. Generally speaking, the Curtis Publishing Company, like other publications, pick the soft spots. Wherever there is a wholesale dealer in a large city who has a good organization, they go to him.

Q. That is your surmise?

A. It is not a surmise; it is a fact.

Q. How do you know it?

A. By the number of agents who handle the—by the number of news dealers who handle the "Post."

Q. How many were there?

A. Oh, I haven't got a list, but it is almost general. It was more so until recently when they began to dictate to them and tell them they could not handle this and that.

MR. WELCH: I move to strike that out as unresponsive.

THE WITNESS: I mean——

MR. WELCH: I move to strike that out as unresponsive.

MR. DALY: What was that question, Mr. Stenographer?

(The record was read.)

THE WITNESS: And cut down the number.

MR. WELCH: Now, just wait a minute.

EXAMINER MOORE: Well, if you want to finish your answer, Mr. Annenberg,——

THE WITNESS: Yes, I would like to.

EXAMINER MOORE: He can finish his answer, and then we can rule on it.

THE WITNESS: And cut down the list considerably by discontinuing their supplies.

MR. WELCH: Now, I move to strike that answer out as unresponsive and calling for a mere surmise and opinion of the witness.

MR. DALY: The last part of the answer may be unresponsive.

MR. WELCH: Well, that is what I mean, it may be unresponsive.

MR. DALY: We do not object to that last part going out.

EXAMINER MOORE: The last part of the answer may be stricken out.

MR. WELCH: What stays in now, Mr. Stenographer?

(The record was re-read.)

MR. WELCH: "It was more so until recently" —from then on, I move be stricken out.

By MR. WELCH:

Q. How many cities was it that the Curtis Publishing Company supplied this wholesale agent, wholesale news—newspaper agent?

A. Most generally in the large cities, in our territory.

Q. How many?

A. Oh, I will make an easy guess; there must be anyhow 250 in the large cities in our territory.

Q. Two hundred and fifty?

A. Yes; in the larger cities in our territory. That is a very small proportion, I should say.

MR. WELCH: That is all.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. Now, Mr. Annenberg, you have testified as to the number of wholesalers in Chicago—wholesale dealers in Chicago. Will you give the character of the organization of those dealers that you have described?

A. In Chicago?

Q. Yes, how do they——

A. A man has a store and he incidentally handles newspapers. He pays $1.40 a hundred for the daily and sells them for two cents a copy. He is called a dealer.

Q. Is that what you call a wholesale dealer?

A. Yes, sir; that is, in Chicago.

Q. Does he sell—do all these dealers sell to the retailers?

A. No, sir; just to the public.

Q. Just to the public?

A. Yes, sir.

Q. Now, Mr. Levy testified yesterday, stating that he had about 100 rigs—80 or 100 rigs, distributing papers throughout the city.

A. Yes, sir.

Q. And that he was the only wholesale dealer in the city—well, I won't say that he said that, but anyway, that he distributed through—had about a hundred rigs distributing papers. Now, will you distinguish the difference between Levy and these men that you are describing here?

A. Levy supplies the same people that we supply. That is, he wholesales to them the same as we wholesale to them. We sell to them at the wholesale price. Levy sells to them at the wholesale price. Levy represents the publications that he handles just the same as we represent The Tribune Company in the distribution. He is a distributor's agent.

Q. Now, I ask you to distinguish between these 2000 dealers you testified, and Levy. Describe the difference.

A. Well, one is a person who sells newspapers to the public direct and does not supply anybody else that sells papers, and Mr. Levy is just the opposite. He does not sell to the public direct but sells to the dealers.

Q. Now, you are speaking of the city of Chicago?

A. Yes, sir.

Q. The 2000 dealers? Now, when this consolidation was made, that you have described, what sort of organization did these men have then to distribute

the papers in their community? How did they get them out to the people after the re-organization?

A. Well, in some instances——

Q. How would your papers reach out to the individual purchaser?

A. Why, they purchased, I suppose they purchased——

Q. Don't say "I suppose." Answer if you know.

A. Well, they had to deliver by delivery organization, in the nature of vehicles, horses and wagons, and men.

Q. Who did?

A. This wholesale dealer, and made a delivery.

Q. Did they have boys?

A. They had, probably had boys selling, and had news dealers, and they created boys and news dealers —they promoted boys and news dealers. They started them in business.

Q. Did they have many boys, do you know?

A. Well, there were not very many boys prior to the consolidation. But after the consolidation there was a great number of boys worked up by both the newspapers—both the newsdealers and the Chicago newspapers who aided them.

Q. Then it was after this time that the Curtis publications——

A. Came in on the organization.

Q. Came in on the organization?

MR. WELCH: I object to that.

By MR. DALY:

Q. Well, when did the Curtis publications——

MR. WELCH: Now, wait a minute.

MR. DALY: Well, he has already testified to that.

MR. WELCH: Mr. Daly, I want to get the record right.

MR. DALY: Strike that out.

MR. WELCH: I don't want to make objections——

MR. DALY: He has already testified.

MR. WELCH: Then I want to strike out the question and the answer.

MR. DALY: Strike that out.

By MR. DALY:

Q. Now, it was in 1906 that this organization went in that you have spoken about?

A. It started, about in 1906.

Q. Now, when did the Curtis people——

A. They lost no time. They got in as fast as we did.

MR. WELCH: Now, wait a minute.

By MR. DALY:

Q. Yes; when?

MR. WELCH: Now, just wait a minute.

THE WITNESS: In 1906.

MR. WELCH: When did the Curtis people what?

MR. DALY: When did the Curtis people begin to act with these wholesalers?

MR. WELCH: I object.

By MR. DALY:

Q. Or arrange with wholesalers to distribute their magazines?

MR. WELCH: I object to that as calling for a conclusion.

MR. DALY: What conclusion is there in it? I am asking this gentleman if he knows.

MR. WELCH: You are asking when was it the Curtis people commenced to act with these dealers.

MR. DALY: Well, I will change that question here.

By MR. DALY:

Q. When did these dealers begin to handle the publications of the Curtis Company?

MR. WELCH: If he knows.

By MR. DALY:

Q. If you know.

A. Oh, in a good many instances, as quickly as they could get them, as quickly as they would give them to them, the Curtis Publishing Company lost no time——

MR. WELCH: Now, just wait. There is no question.

THE WITNESS: I haven't finished my answer.

MR. DALY: Let him finish his answer.

MR. WELCH: You asked——

MR. DALY: You had not finished.

MR. WELCH: Now, just what is the question?

MR. DALY: Read that question.

(The record was read.)

MR. WELCH: What is the answer?

(The record was read.)

MR. WELCH: I move to strike out that answer as not responsive. He is asking for a time, a date, and the witness answers in a general way his own conclusion, "in a good many instances as quickly as possible"—an indefinite, unresponsive answer; I move to strike it out.

MR. DALY: Strike it out.

MR. WELCH: If you want a date, he can give it.

THE WITNESS: Yes, I can give you a date.

By MR. DALY:

Q. Give a date.

A. Milwaukee, Wisconsin, somewhere in the year —that agency was organized in 1907, and soon after

it was organized the Curtis Publishing Company had put their business in that agency.

Q. Now, as to other cities, do you know?

A. Fond du Lac, Wisconsin—La Salle, Illinois.

MR. WELCH: What is the date?

THE WITNESS: Oh, somewhere around in 1907. Let me refer to that list a minute, please, if I may.

(Witness examines paper.)

Des Moines, Iowa.

MR. WELCH: What is that?

By MR. DALY:

Q. What about Des Moines, Iowa?

MR. WELCH: What is that list that you have there, Mr. Annenberg?

MR. DALY: Wholesale dealers.

THE WITNESS: A list of wholesale dealers in our territory.

MR. WELCH: Who made that list up?

THE WITNESS: I made up some of it that came to my mind. Peoria, Illinois; Dubuque, Iowa; Ft. Wayne, Indiana; Kenosha, Wisconsin.

MR. WELCH: What is the name?

THE WITNESS: Kenosha. I am merely citing cases that I am positively sure of, this being a long time back. That is as far as I would care to trust to my memory.

By MR. DALY:

Q. Can you fix the time approximately when those towns—when the arrangement was made in those towns that you have testified about here with the Curtis Company?

A. Oh, I should say in the early part of 1907, to make sure.

Q. Subsequent to this organization?

A. Yes, sir.

Q. Now, you have spoken about Sioux City, Mr. Annenberg. You described the conditions in that city?

A. Yes, sir.

Q. What other cities were there that——

A. I gave a description of the general condition.

Q. Is that the general condition?

A. That was the general condition.

Q. Take a city like Milwaukee, for instance, would that be the condition?

A. No. In Milwaukee it was a different proposition. In Milwaukee, each newspaper office had a paid agent and not a news dealer, and did not supply it to the news dealers direct. Each one of us conducted an office with a paid agent, with a paid organization of horses and wagons, and we each and every one of us distributed our merchandise individually to newsboys and news dealers in that city.

Q. And after the wholesaler was put in that city, what happened?

A. One man handled them all.

Q. Take Springfield, Illinois.

A. Yes, sir.

Q. Do you know the conditions there?

A. About the same as Milwaukee—paid agents.

Q. And that system was done away with and the other put in?

A. Yes, sir.

Q. You stated to Mr. Welch, if my recollection is right, in his question as to the putting out of business of certain men—will you tell what you mean about that?

A. You mean "The Saturday Evening Post"?

Q. No. That when you put in this new system Mr. Welch asked you the question, according to my recollection, whether or not a lot of people were not put out of business.

A. I answered no, that nobody was put out of business.

Q. I thought you said they were.

A. Oh, no. I answered no. He intimated that there was and I answered no.

MR. DALY: Well, that is all.

RE-CROSS-EXAMINATION.

By MR. WELCH:

Q. How many Chicago wholesalers do you supply at the present time with your newspapers?

A. Well, that would be hard to say. You mean, how many—I could tell as to how many get the wholesale rate; by that I could tell. I would have to refer to the books to make it accurate.

Q. Well, now, can't you—I don't know from your testimony how many wholesalers of newspapers you have in Chicago at all.

A. We have no wholesalers in Chicago that wholesale to newsboys or news dealers. We have—what we call wholesalers in Chicago are people who buy papers at wholesale and re-sell them at retail.

Q. Well, that is what I mean.

A. To the public.

Q. How many are they?

A. There are in Chicago, I said, about 2000 dealers who purchase their papers wholesale from The Tribune Company and sell them retail to the public.

Q. Well, how many persons are there in Chicago who distribute newspapers, if any, wholesale to retailers?

A. None.

Q. None whatever? How many Chicago wholesalers do you supply at rates that would enable them to wholesale in the same way that Levy does, that you have testified?

A. None in Chicago.

Q. None in Chicago?

A. None. None that I know of.

Q. Then you have not the same arrangement in Chicago that you have in these other cities, have you?

A. No, sir. No, we are able to maintain our own organization in Chicago. We can't do it in the country.

MR. WELCH: That is all.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. Now, you just said that you were able to maintain your organization in Chicago but you could not do it in the country; why can't you?

A. We don't sell enough papers, and the agent could not make a sufficient revenue out of our business to handle it alone.

MR. DALY: What was that answer?

(The answer was read.)

MR. DALY: That is all.

RE-CROSS-EXAMINATION.

By MR. WELCH:

Q. Well, what do you mean by you cannot maintain it in the country? You mean to say that there is a different arrangement in Chicago from every other place?

A. That is, as far as the Chicago papers are concerned.

Q. Do you mean to say there is no other city in any of the nine states that you have mentioned, or any of the large cities in other states, where you have any other arrangement than—where you have not the same arrangement that you have in Chicago?

A. Correct.

Q. You mean to say you could not maintain it in any other city?

A. No, sir, and get the price that we get for our

papers. Of course, if we gave our papers—practically gave them away, why, we could probably do it.

Q. Well, how many men have you in Chicago at the present time in your organization?

A. We have——

MR. DALY: What do you mean by men?

THE WITNESS: Distributing papers, I suppose you mean.

By MR. WELCH:

Q. I mean, you say you have a separate number of your own distributors here?

A. Yes, sir.

Q. Do they distribute any other papers at all?

A. No, sir.

Q. How many are there?

A. We have got forty-five wagon routes and forty-five drivers six days a week; we have seventy-six drivers on a Sunday, and seventy-six wagons and automobiles on Sunday.

MR. WELCH: That is all.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. That is, the "Tribune" alone now you are speaking about?

A. Yes, sir.

Q. In the City of Chicago?

A. Yes, sir.

MR. DALY: That is all.

(Witness excused.)

EXAMINER MOORE: What time do you want to recess to?

MR. DALY: We have one more witness, Mr. Examiner, and I think I would like to interview that witness. And, if it is agreeable on all sides, I suggest that we take a recess until two o'clock.

EXAMINER MOORE: A recess until two o'clock; is that satisfactory to respondent's counsel?

MR. WELCH: Yes.

EXAMINER MOORE: We will take a recess then until two o'clock.

(Whereupon, at 1.10 o'clock P. M., a recess was taken until 2 o'clock P. M. of the same day.)

---

## AFTER RECESS.

(The hearing was resumed at 2 o'clock P. M., after the noon recess.)

EXAMINER MOORE: You may proceed.

LOUIS H. ROSE, called as a witness on behalf of the Commission, being first duly sworn by the Examiner, testified as follows:

### DIRECT EXAMINATION.

By MR. DALY:

Q. What is your name?

A. Louis H. Rose.

Q. Your address?

A. 554 Roscoe Street, Chicago.

Q. What do you do?

A. Assistant circulation manager of the "Chicago Tribune."

Q. How long have you done that work?

A. Two years.

Q. What did you do prior to that time?

A. Country circulator for "The Tribune."

Q. How long were you in that position?

A. Since 1910.

Q. Prior to that time what did you do?

A. "Chicago American."

Q. How long were you there?

A. Since 1901.

Q. Were you there in 1906?

A. Yes, sir.

Q. What were you doing in 1906?

A. I was a traveling man.

Q. What territory did you cover?

A. I covered Iowa, some times Illinois, Indiana, and part of Nebraska.

Q. Traveling for what?

A. For the Hearst publications.

Q. And what were you doing on those trips?

A. Collecting accounts, promoting business, putting on news dealers.

Q. How long were you engaged in that work?

A. From about 1904 to 1907 or '08. 1908, I believe it was.

Q. You heard Mr. Annenberg testify this morning, did you?

A. Yes, sir.

Q. How did your papers—how were you papers distributed prior to 1906?

A. Some towns we had a number of accounts. Some towns we had our own dealer, and the other Chicago paper had their own dealer.

Q. Some accounts—what do you mean by that?

A. Oh, some towns we would probably have forty or fifty accounts—dealers, handling our papers direct.

Q. And in others you say what? I didn't understand you.

A. We had separate dealers and the other Chicago papers had separate dealers.

Q. Is that the situation now as to the distribution of those papers?

A. No, sir.

Q. When was that condition of affairs changed, if you know?

A. Oh, starting in the year of about 1906.

Q. Will you describe that change? Tell what happened about the distribution of these papers.

A. At that time the different newspapers had a great deal of trouble in collecting their accounts. They had to pay the news dealers for handling the publications so that they could make it up, and it was tremendously expensive to all the newspapers concerned.

Q. Well, what did they do?

A. They all got together and put on wholesale dealers in the different large cities.

Q. And you have been in touch with those dealers, have you, since?

A. Yes.

MR. WELCH: What did he say? They all got together and did what?

By MR. DALY:

Q. Got together and all—what did you say?

A. Put on wholesale dealers to handle the different publications.

Q. What became of the other system, the other dealers, that were in the business prior to that?

A. Different traveling men got to a town and picked out what they thought was the best dealer to handle all the publications. The other dealer was either bought out, or if he owed any account that he didn't pay, the business was taken away from him and given to the one generally who was thought to be the best financially and the best one who could take care of the business in a proper manner.

Q. Now, you seemed to say there were different situations in different towns. Will you show those, that is, different ways of distribution prior to 1906 in different communities?

A. Yes. For instance, in——

Q. Now, illustrate that, will you, please, or describe that?

A. Danville, Illinois: At that time the Hearst papers had a dealer by the name of Kelly. The "Tribune" had a dealer by the name of—I can't just recollect his name.

Q. They had two men?

A. Two men representing them there. The different traveling men got together and appointed—neither one of these dealers were competent to take care of the business in a proper manner. The different traveling men got together and appointed a gentleman by the name of Randolph, Charles Randolph. Both dealers had accounts at that time which were very large. Mr. Randolph paid some of those accounts, and we therefore turned the business over to him.

Q. That is to say, he bought the other people out?

A. Yes, sir.

Q. By paying their accounts, is that what you mean?

A. Yes, sir.

Q. Now, what did he handle after that?

A. He handled all the Chicago papers.

Q. Did he handle any magazines?

A. No, sir, not at that time.

Q. Not at that time? Did he later?

A. Yes, sir.

Q. Now, describe the other situation that you spoke about.

A. Some of the towns the newspapers were shipping papers to whoever wanted to handle them. The traveling men went to that town——

Q. Traveling men representing these different papers?

A. The different newspapers. And picked out what they thought probably a good live dealer, made him the wholesaler, and he in turn supplied all the different dealers who handled papers direct prior to that time.

Q. Does that cover the situation generally, those methods of distribution prior to 1906?

A. Yes, sir.

Q. Have you described all—those two situations would cover the territory that you speak about?

A. Yes, sir.

Q. Now, when these consolidated dealers that we are talking about took hold, what did they do about distributing their papers?

A. They got boys. They made out routes. Delivered papers to subscribers on the routes. Got as many more sub-dealers to handle the papers in their stores, and the newspaper man went out promoting the business amongst the boys, as well as getting as many more news dealers as they possibly could.

Q. Did you do any of that work?

A. Yes, sir.

Q. What work did you do in that behalf—in that respect?

A. I went to the different schools, interviewed the different principals, told them our proposition, showed them where the boys could make money before and after school, showed them how it would keep them off the streets and make little business men out of them, and convinced them it was a very good thing for them to help us along in securing good, live boys in different parts of the town to sell papers and to deliver them.

Q. Was that work done generally among these wholesale dealers that had been established by the newspapers?

A. As a rule it was.

Q. How many dealers would they establish in the various towns and cities of that character?

A. You mean sub-dealers?

Q. I mean, how many of these wholesale dealers?

A. Supplied by the wholesale dealers?

Q. How many of these wholesale dealers would they put in a town?

A. One.

Q. Is that true for the small towns as well as the large towns, generally speaking?

A. Yes, sir.

Q. Is that the condition now?

A. Yes, sir.

Q. The newspapers distribute through these wholesale dealers that you talk about?

A. Yes, sir.

Q. How do these wholesale dealers reach their customers?

A. Subscribers?

Q. No, I mean——

A. The sub-dealers?

Q. Their sub-dealers, their customers, whoever they are.

A. Either by automobile or wagon, deliver papers to their stores, to the boys' homes. Go to the train, get the papers, come back to their office. Then they make the distribution throughout the town.

Q. Do you know whether any of those original wholesale dealers are still in business?

A. Yes, sir.

Q. To what extent?

A. There are quite a few of them still in business.

Q. Can you name any of them?

A. There is Joe Bosse, Green Bay; John Burnton, Fon du Lac; George Haverty, at Oshkosh; Eric Nelson, at Omaha; Younkin Brothers, Ottumwa; Heitter, at Waterloo; A. L. Seidler, Quincy; W. T. McFadden, Decatur, Illinois; Harvey Stophlet, at Ann Arbor, Michigan; Harry Hinchcliffe, Racine, Wisconsin; George Becker, Kenosha, Wisconsin; P. G. Norton, Dubuque, Iowa; Ben Kominitz, Davenport, Iowa. Is that enough?

Q. I want all you know. Around in Illinois, can you remember?

A. George Stevens, Streetor, Illinois; Kemmer Brothers, Elgin, Illinois; Nassua & Thompson, East Chicago, Indiana; George Seidler, at Quincy, Illinois—at Springfield, Illinois; James Coleman, at Cairo, Illinois. I can't quite remember the towns. If you will read off those names I can probably give you the dealers' names, whether or not they are old dealers.

Q. Will you look at this (handing paper to the witness)? You have a right to refresh your memory from this list.

MR. WELCH: What is that list?

THE WITNESS: That is a list of towns, and some wholesale dealers in different parts of the country.

MR. WELCH: Wholesale dealers in newspapers, you mean?

THE WITNESS: Yes, sir.

By MR. DALY:

Q. Anything else? Do they deal in other things as well?

A. Oh, a lot of those fellows handle tobacco, a lot of those fellows handle candy.

Q. Handle magazines?

A. A lot of those fellows handle magazines, and a lot of those fellows handle sporting goods.

Q. Curtis publications?

A. Sir?

Q. Curtis publications?

A. Yes, sir.

MR. WELCH: Well, what is that—a lot of them handle Curtis publications; you simply say "Curtis publications."

MR. DALY: Magazines, the Curtis publications—everything we have been talking about.

MR. WELCH: What about Curtis publications? You can ask for a lot of them or all of them, or what?

THE WITNESS: A lot of them handle Curtis publications.

MR. WELCH: Yes; that is all right.

By MR. DALY:

A. L. M. Nock, Cedar Rapids, Iowa——

MR. WELCH: What are those names you are now giving?

THE WITNESS: News dealers; wholesale news dealers.

MR. WELCH: Well, I know, but what?

MR. DALY: That were in business, began business in 1906 or thereabouts, and still are in business.

MR. WELCH: Yes, I see.

THE WITNESS: Charles Nassau, Crown Point, Indiana; C. W. Harridan, Freeport, Illinois; L. D. Barker, Janesville, Wisconsin; A. J. Miller, Laporte, Indiana; August Ostermeyer, LaSalle, Illinois; E. W. Longfellow, Marinette, Wisconsin; C. E. Meyer, Michigan City, Indiana; M. L. Annenberg, Milwaukee, Wisconsin; De Soto News Company, Minneapolis, Minnesota; A. M. Reed, Muncie, Indiana; Eric Nelson, Omaha, Nebraska —I believe you have that name before. N. St. Marie, St. Paul, Minnesota; Marshall Brothers, Sioux City, Iowa; Oldham Brothers, Urbana, Illinois; J. L. Price, Waukegan, Illinois; J. C. Orcutt & Company, Lincoln, Nebraska. Those are the dealers who handled the Chicago publications at that time.

By MR. DALY:

Q. And are still handling them?

A. Yes, sir.

Q. And were organized as you have described?

A. Yes, sir.

Q. Is that the whole list? Is that all of the dealers that you know?

A. That were handling papers—that were handling the Chicago papers at that time. There have been a lot of new dealers who have——

Q. Who have gone in since?

A. Gone in since, or sold their business from one to another.

MR. DALY: Yes. That is all.

CROSS-EXAMINATION.

By MR. WELCH:

Q. You testified that prior to 1906 you had two ways of distributing the Chicago paper that you were connected with; what paper was that?

A. "Chicago American and Examiner."

Q. One was to your own dealer; and that each Chicago paper had its own dealer. Was he a wholesaler?

A. He was paid a salary by the "Chicago American and Examiner."

Q. In every city that you distributed and had this dealer, was he your salaried representative?

A. Yes, sir.

Q. He handled no other paper but yours?

A. No, sir.

Q. And is that true of the other Chicago papers?

A. In most cases it was.

Q. That had these separate dealers?

A. Yes, sir.

Q. They were all salaried employees, then, is that it?

A. I would not call them salaried employees. But they were given—they were paid a salary in order to help maintain the agency.

Q. Were they paid a salary in addition to what they made?

A. Yes, sir.

Q. Out of the sale of the papers?

A. Yes, sir.

Q. Well, they bought the paper at one price then from the newspapers, did they?

A. Yes, sir.

Q. And they sold it at a higher price to the various retail dealers, didn't they?

A. Yes, sir.

Q. Then they were wholesalers to that extent?

A. To that extent they were wholesalers.

Q. And that applied in all of the cities in which you operated?

A. No, sir, not in all the cities; some of the cities.

Q. In some of the cities?

A. Yes, sir.

Q. Now, in some——

A. It proved to be a great expense to the different Chicago papers and they were practically giving their papers away for nothing.

Q. Well, wait. I do not want to go into that now. Just wait a minute. I want to get the other cities in which that did not appertain. You said you shipped to anyone who would handle them; what do you mean by that?

A. Anybody who wanted to order papers.

Q. And at what price would you ship them to him? You shipped them to him at a price which would permit him to resell as a wholesaler?

A. No, sir.

Q. Well, you said that you made him a wholesaler and he distributed to others.

A. That is the dealer we all put on.

Q. No. I am speaking about prior to 1906.

A. In those—some of those cities that we had our own agents, the other papers had their own agents. We sold him papers for a certain price and he would re-sell them to the sub-dealer at a certain price.

Q. To that extent you said he wholesaled?

A. Yes.

Q. But that did not apply to all of the cities?

A. No, sir.

Q. Now, what was the method in the other cities to which that did not apply?

A. We would sell papers to whoever wanted to buy them.

Q. To whoever wanted to buy them? You mean a man would apply to you for a certain number of papers and buy a certain number of papers?

A. For instance, if you, a storekeeper in a certain town—you wanted to handle the "American" or "Examiner"——

Q. Yes.

A. ——you would send us an order and we would supply you.

Q. And you would supply him at a rate, I understood you to say, that permitted him to re-sell as a wholesaler?

A. No, sir, I didn't say anything of the kind.

Q. Well, I understood you to say that.

A. No. I said that applied to the towns where we had our exclusive agent and we paid him a salary of some kind in order to help him maintain the business.

Q. And the other arrangement, you merely sold to the men and they sold direct to the public?

A. Yes, sir.

Q. I see. Then they paid a higher rate for your papers than the first man that you speak of?

A. They paid a higher rate for the papers—a trifle higher rate for the papers, than the agent which we subsidized.

Q. Yes?

A. In another town.

Q. Yes. Now, what was the proportion between

the agent, as you describe you subsidized by giving him a salary, and this man who ordered direct from the home office, so to speak?

A. We sold the subsidized agent papers for three cents a copy on Sunday.

Q. No. I say, what was the proportion between those two classes of men who distributed your papers prior to 1906?

A. We sold to——

Q. Was it fifty-fifty, or 75 to 25?

A. Oh, I get what you mean.

Q. See what I mean?

A. Yes, I get what you mean. It was, I should imagine, about 75 per cent. were those to whom we shipped papers direct to any number of accounts in any one town.

Q. That is the men that you shipped direct and whom you testified sold retail to the public?

A. Yes, sir.

MR. WELCH: That is all.

MR. DALY: That is all.

(Witness excused.)

MR. DALY: Mr. Examiner, that is all the witnesses we have here.

(After informal discussion.)

EXAMINER MOORE: If there is nothing further, then, the hearing will take a recess until tomorrow morning. At what time?

MR. DALY: Ten o'clock.

EXAMINER MOORE: Ten o'clock. In Detroit, Michigan.

MR. DALY: Federal Building.

EXAMINER MOORE: Federal Building.

(Whereupon, at 2.45 o'clock P. M., an adjournment was taken until ten o'clock A. M., Friday, January 18, 1918, at Federal Building, Detroit, Michigan.)

*Federal Trade Commission,*
v.
*Curtis Publishing Company.*

---

Room 324, Federal Building,
Detroit, Michigan,
Friday, January 18, 1918.
11.30 o'clock A. M.

---

Met pursuant to adjournment.

Present as before.

EXAMINER MOORE: Proceed.

RALPH A. DAINES, called as a witness on behalf of the Commission, having been first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Give your full name and address.

A. Ralph A. Daines, D-a-i-n-e-s.

EXAMINER MOORE: Speak out loudly.

By MR. DALY:

Q. Where do you live?

A. My home is 113 Blackman Avenue, Jackson, Michigan.

Q. What is your business in Jackson, Michigan?

A. Student.

Q. Anything else that you do there?

A. I worked several places.

Q. Student, do you say?

A. Yes, sir.

Q. Are you engaged in any other business besides being a student?

A. While in Jackson?

Q. Well, where is your home?

A. At Jackson.

Q. Your business?

A. It is in Albion.

Q. Albion?

A. Yes, sir.

Q. What was your business in Albion?

A. Student, and a news dealer.

Q. Wholesale news dealer?

A. Yes, sir.

Q. What did you wholesale?

A. Newspapers and magazines.

Q. What magazines did you handle?

A. I handled the Curtis Publishing Company magazines and publications, and the Hearst publications.

Q. What papers?

A. The "Chicago Tribune," and "Herald," and "Examiner."

Q. Detroit papers?

A. "Chicago Daily News," and "Detroit Free Press," and "Detroit News-Tribune," "Detroit Times," and Jackson papers.

Q. How large a place is this?

A. Albion, sir?

Q. Yes.

A. I think it is about eight or nine thousand.

Q. How many Curtis magazines did you handle, and which kind?

A. I think the highest order that I handled would be two hundred "Saturday Evening Posts," twenty "Country Gentleman," and ninety "Ladies' Home Journal."

Q. Were you the only wholesaler in that city, or not, of those magazines and newspapers?

A. I was the only business. The drug stores handled magazines.

Q. Well, do they handle them in a wholesale way, or retail?

A. Retail.

Q. I am speaking of wholesalers now.

A. Yes, sir; I was the only wholesaler.

Q. Did you have a contract ever with the Curtis Publishing Company about the sale of their magazines?

A. I had a contract with them; yes, sir.

Q. About when did you enter into that contract?

A. It was entered into by my brother.

Q. Have you the contract there?

A. Yes, sir. (Producing papers.)

Q. Your brother and you were in business together, were you?

A. Yes, sir.

Q. Will you look at Section 13 of that contract? (Handing a paper to the witness.)

A. Yes, sir.

Q. What is that section?

A. It is a clause stating that the Curtis agents would refrain from handling any other publications than they were handling at the beginning of that contract, without getting the approval of the Curtis Publishing Company.

Q. Did you at any time ever request the approval of the Curtis Publishing Company to take on any other magazine or magazines?

A. Not written, sir.

Q. Well, in any way?

A. We never requested it.

Q. Did the "Pictorial Review" ask you ever to take on their magazines?

A. Yes, sir.

Q. Did you take them on?

A. No, sir.

Q. Why?

A. Mostly from the fact that we had a contract with the Curtis Publishing Company.

Q. Did any of the representatives of the company ever see you about the contract—about the taking on of the "Pictorial Review"?

A. I am not certain. We had correspondence, but I am not certain whether there was any——

Q. Have you any correspondence there relative to that?

A. I have not here. I may have it in my grip.

Q. Did you ever write them asking to take on any other paper—the Curtis Company?

A. No, sir.

Q. Well, what did you do about that prohibitive clause, about taking on magazines?

MR. WELCH: I wish you would not characterize it as a "prohibitive clause."

MR. DALY: Well, the refraining clause.

MR. WELCH: No, I don't want it characterized.

MR. DALY: Well, the word "refrain" is used in there.

MR. WELCH: I cannot help it, Mr. Daly. We object to characterizing that clause in any way. He can refer to that Clause 13.

MR. DALY: I have a right to describe that clause, if the Examiner please, and to describe it as the "refraining" clause—from taking on magazines.

MR. WELCH: We object to that, and I would like an exception every time it is stated on the record.

MR. DALY: Well, I insist that that question be answered.

EXAMINER MOORE: What is the question?

(The question was read.)

MR. DALY: Section 13, I am speaking about.

EXAMINER MOORE: Well, I would have to read Section 13 to see what the language of it was, I think.

MR. DALY: Oh, well, then I withdraw it, if there is going to be all that trouble about it.

EXAMINER MOORE: The witness called it a refraining clause.

By MR. DALY:

Q. Will you look at this letter? (Handing paper to witness.) Did you receive that letter?

A. Yes, sir.

MR. MILBURN: No objection.

MR. DALY: We offer this letter in evidence.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 104," the same being in the words and figures as follows, to wit):

COMMISSION'S EXHIBIT No. 104.

"March 7, 1917.

Messrs. Daines Brothers,
South Superior Street,
Albion, Michigan.

Gentlemen:

From Mr. Reynolds we have a letter stating that of late you have been wholesaling Every Week.

We have looked through our correspondence and do not find any record of receiving from you any communication asking for our approval of such an arrangement between you and the Every Week publisher and we have reason to believe that you have not been without information as to the

effect of the clause in your contract with us covering the point in question.

Mr. Reynolds advises us that you assured him that you will hereafter manage your agency conformably to that part of your contract with us.

Under all the circumstances, we feel that we are entitled to receive a written expression from you as to what your future course will be with respect to the contract clause in question.

We thank you in advance for an early reply.

We are much interested in any increased local effort for larger sales of THE COUNTRY GENTLEMAN and are willing and anxious to pay handsome, liberal bonuses for increases in net sales of THE COUNTRY GENTLEMAN during months to follow.

With kind personal regards,

Very truly yours,

THE CURTIS PUBLISHING COMPANY.

*District Manager.*

Dictated by
MED SM"

Rubber stamps):

"Refer to Mr. Douglas."

"Answered
Mar 15 1917
M. E. D."

"Ev Week
Pic."

(Above is a carbon copy of letter.)

By MR. DALY:

Q. Will you look at a letter dated March 16, 1917, from the Curtis Publishing Company to you? (Handing paper to witness.) Let me look at that again. I withdraw that for the present. Are you handling—did you handle the "Pictorial Review"?

A. No, sir.

Q. Why?

A. Because of the fact that we were under contract with the Curtis Publishing Company not to handle it. We were forbidden by the representative from the Curtis Publishing Company from handling it.

Q. Can you recall the representative that forbade you to handle that magazine?

A. It was their agent, Mr. Reynolds.

Q. Mr. M. D. Reynolds?

A. Yes, sir.

Q. Did you handle "Every Week"?

A. Yes, sir.

Q. How long did you handle it?

A. You want the period, the number of weeks?

Q. Oh, well, approximately.

A. Well, we handled it from the beginning of the publication when it spread through Michigan until the date when we were forbidden to handle it by the Curtis Publishing Company.

Q. When was that, about?

MR. MILBURN: May I ask you to read that answer?

(The answer was read.)

THE WITNESS: Why——

By MR. DALY:

Q. What occurred about the stopping of that magazine?

A. Their representative called on us and found out that we were handling the "Every Week," and when he left he had the understanding that we would discontinue handling it, which we did.

Q. Will you look at this letter, dated February 5, 1917, from the Curtis Publishing Company to you? (Handing paper to the witness.) Did you receive that?

A. Yes, sir.

MR. DALY: We offer this letter in evidence.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 105," the same being in words and figures as follows, to wit):

COMMISSION'S EXHIBIT No. 105.

(On letterhead of):

"THE CURTIS PUBLISHING COMPANY
Philadelphia,

Feb. 5, 1917.

Mr. L. A. Daines,
c/o Daines Brothers,
Albion, Michigan.

Dear Mr. Daines:

The plans of another publisher and his agent (news company) lead us to remind you of Clause 13 of your Curtis contract. The purpose and effect of that clause are as follows:

*With respect to periodicals not previously wholesaled by you, you definitely agreed to refrain from wholesaling to boys or dealers any periodicals not our own without first obtaining our approval.*

Of course you will be very careful to make with the other publisher or his agent (news company) no arrangement contrary to your Curtis contract.

In justice to you and to avoid any situation which would be embarrassing to both you and us, we feel in duty bound to say that your arrangements with us may be continued only upon the basis stated.

Our relations have been so very pleasant that we hope to be able to supply and serve you indefinitely hereafter.

This is a general letter to all of our District Agents. Please attach it to your Curtis contract for future reference.

Very truly yours,

THE CURTIS PUBLISHING COMPANY.

M. E. Douglas,

*Manager Sales Division.*

MED"

By MR. DALY:

Q. The contract that you have testified about contains a clause with reference to putting up cash security. Did you put up cash security with the Curtis Company, or not?

A. I did not, sir. My brother did.

Q. Well, you and your brother were together?

A. Yes, sir.

Q. I am speaking about your firm. How much did you put up?

A. Twenty-five dollars.

Q. And you have testified as to how many magazines you handled, have you?

A. Yes, sir.

Q. That were handled by you?

A. Yes, sir.

Q. When you got your—when you were handling "Every Week", how did you secure that publication, how did you get the copies delivered to you?

A. From the Detroit News Company.

Q. What is that, do you know? Is that a branch of the American News Company?

MR. WELCH: Yes.

A. First we received them from the "Every Week" direct in New York. Later they changed their method of shipping them, and they came through the Detroit News Company.

By MR. DALY:

Q. Then you got them from this Detroit News Company?

A. Yes, sir.

Q. How did they deliver them to you?

A. They were sent from Detroit, by express, I think, or parcel post.

Q. How many dealers did you serve in Albion?

A. Retail dealers?

Q. Yes.

A. Seven at the most.

Q. Do you know how many retail dealers there are in that city?

A. Seven.

MR. DALY: That is all.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. Mr. Daines, when you started into the wholesaling of magazines what concern did you start with? What was your first magazine, do you remember?

A. Why, it would be hard for me to answer that.

Q. Well, were the Curtis Company publications the first you took up in the magazine line?

A. Well, my brother was there before I was, and I——

Q. You don't know? Do you know what his first publication was?

A. I think the Curtis Publishing Company and the Hearst Publishing Company were—came at the same time, they were close.

Q. You were not in the buisness then?

A. No, sir; I was not.

Q. Does your brother carry on the business now?

A. No, sir; he does not.

Q. You closed your—the contract has been terminated?

A. Yes, sir.

Q. And your cash security returned?

A. With interest; yes, sir.

Q. You said that Mr. Reynolds came and forbade your handling of both "Pictorial" and "Every Week"?

A. Yes, sir.

Q. He came—when he spoke to you, did he call your attention to your contract with the Curtis people?

A. Yes, sir.

Q. And that was the extent of his prohibition, is that correct?

A. Extent of——

Q. Well, he called your attention to the contract, showed you the contract, you either had to stay with the Curtis or stay with the other people, isn't that true?

A. That was the sum of what his visit was for, I think.

MR. DALY: What was that answer?

(The answer was read.)

By MR. MILBURN:

Q. Who is the Curtis agent now, do you know?

A. Why, I am not sure, sir.

Q. You don't know?

A. No, sir.

MR. MILBURN: That is all.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. Did you handle newspapers before you went and took on magazines, or not?

A. Yes, sir.

Q. I am not sure whether you answered this or not: When did you—when was it, in what year was it,

if you know, when the Curtis people objected to your handling these other magazines?

A. 1917.

MR. DALY: That is all.

MR. WELCH: That is all.

RE-CROSS EXAMINATION.

By MR. MILBURN:

Q. Oh, I just want to bring out—You are now in the Army, in the government service?

A. Yes, sir.

MR. MILBURN: I just wanted it in the record.

(Witness excused.)

---

HERMAN RE, called as a witness on behalf of the Commission, having been first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Give your name and address.

A. Herman Re, Coldwater, Michigan.

Q. What is your business, Mr. Re?

A. News dealer.

Q. Wholesale news dealer?

A. Yes, sir.

Q. In what city?

A. Coldwater, Michigan.

Q. How big a city is that?

A. About five thousand.

Q. Are there other wholesale news dealers there?

A. No, there is not.

Q. How do you cover the city?

A. By carrier and boys, you know, and regular routes, and have a copy of—not news stands, but a book store and a drug store, they are handled through.

Q. Do you serve the retailers of the city?

A. I do.

Q. How many are there?

A. Two.

Q. Are you under contract with the Curtis Company or not?

A. I am.

Q. You are familiar with the terms of the contract, are you?

A. I not have that contract, mine is not like that, sir.

Q. Not like this? How do you know? You haven't seen this, have you? Look at that contract. (Handing paper to witness.)

A. Well, it is different than I—(Witness examines said paper.) No, mine has not here Clause 13.

MR. MILBURN: What?

THE WITNES:: Mine has not a clause here 13 in it. That is why I could not find it.

By MR. DALY:

Q. What is the date of the contract?

A. 1909, sir. That is all I have got.

MR. DALY: I want to ask The Curtis Publishing Company, Mr. Douglas, if this man is under contract with this contract. (Indicating.)

MR. M. E. DOUGLAS: If not, then I am taken by surprise.

THE WITNESS: Why,——

MR. MILBURN: I do not think we will raise any question about it.

MR. WELCH: What is that, Mr. Spiess, that he has?

THE WITNESS: That is the contract.

MR. DALY: It seems to be the old contract with the bond on the back. That is what I was looking for earlier in the case.

By MR. DALY:

Q. Well, you are under contract with the Curtis Publishing Company?

A. Yes, I have—(Producing paper). I have two.

Q. Let me look at that one.

A. Made two years later, for "The Ladies' Home Journal."

Q. Oh, yes.

A. But no clause.

Q. Were you approached by The Pictorial Review Company as to handling their magazine?

A. They wrote to me about it, yes.

Q. Will you look at that letter? (Handing paper to witness.)

A. Yes, sir.

Q. Is that your reply at the bottom?

A. It is.

MR. MILBURN: No objection.

MR. DALY: We offer this letter in evidence, dated February 24, 1917, addressed to Mr. Herman Re, by Mr. B. A. Mackinnon, Circulation Director of the Pictorial Review Company, and the reply at the bottom of the letter signed by Mr. Re.

EXAMINER MOORE: The letter and reply are received in evidence without objection.

MR. DALY: We offer that letter in evidence. (Whereupon said letter and reply were received in evidence by the Examiner, marked "Commission's Exhibit No. 106," the same being in the words and figures as follows, to wit):

COMMISSION'S EXHIBIT No. 106.

(On letterhead of):

"THE PICTORIAL REVIEW COMPANY
New York,
February 24, 1917.

Mr. Herman Re.
Coldwater,
Michigan.

Dear Mr. Re:

Why have we received no reply to our recent letter offering you the wholesale agency on Pictorial Review for Coldwater, Michigan?

Acceptances by letter and wire are pouring in upon us from all over the country.

Don't you want the agency? Please let me know definitely one way or the other by return mail.

Yours very truly,
B. A. Mackinnon
Circulation Director.

(Pen and ink notation:)
O. K. Entered 2/28/17. H. J."

---

(Typewritten reply.)

"Coldwater, Mich., Feb. 26, 17.

Dear Sir:

This is the first I have heard from you, concerning this offer, but feel sure that I can handle it to good advantage. Please let me hear by return mail, and I will start to work at once.

What is your proposition, and what is expected of your wholesale agent.

Awaiting an early reply, I am,
Yours,

HERMAN RE."

By MR. DALY:

Q. Will you look at a letter dated March 13, 1917, from The Pictorial Review Company to you?

A. Yes.

Q. Did you receive that letter?

A. Yes, sir.

Q. And the reply at the bottom of it, that is your reply?

A. Yes, that is my reply.

MR. MILBURN: No objection.

MR. DALY: We offer this letter.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 107," the same being in words and figures as follows, to wit):

COMMISSION'S EXHIBIT No. 107.

(On letterhead of):

"THE PICTORIAL REVIEW COMPANY

New York
March 13th, 1917.

Mr. Herman Re
Coldwater,
Mich.

Dear Mr. Re:

Our proposition to you is 9¾¢ per copy laid down in your town.

We will accept covers as evidence of returns within 60 days from date of issue. Our terms are strictly cash with order.

We want you to go right out and canvass your town and then let us have an order for the May number which goes on sale April 10th. This

order should be in our hands by March 20th the latest.

Will you please let us know what other magazines you are the wholesale agent for? We would like this information so that if the chance occurs we can turn over additional magazines to you. We are out to help our agents for we expect them to boost Pictorial Review and break all records. What is good business for them is good business for us. Now go to it and let us have your order as soon as possible.

Yours very truly,
THE PICTORIAL REVIEW COMPANY,
E. H. Crainsford (?)
EHC/MTF. *Circulation Department.*"

---

(Reply at bottom of page.)

"Coldwater, Mich., March 16, 1917.
Pictorial Review Co.,
Dear Sirs:

Since writing you, I have discovered that my being under contract with another firm, makes it impossible for me to accept your offer.

Thanking you for your offer, I am
Yours,
HERMAN RE."

(Rubber stamp):
"Received
Main Office
Mar 19 1917
Answered"

By MR. DALY:

Q. Will you look at a letter dated February 27, 1917, addressed to you—or that you wrote, rather, to The Curtis Publishing Company (handing paper to witness)? Is that a letter written by you?

A. It is.

Q. To the Curtis Publishing Company?

A. Yes.

MR. DALY: I offer this letter.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 108," and is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 108.

(On letterhead of)

"HERMAN RE

General Newspaper Agency

Subscriptions Taken for All Magazines.

Coldwater, Mich., Feb. 27, 1917.

M. E. Douglas,

Curtis Publishing Co.,

Philadelphia, Pa.

Dear Sirs:

I have recently received a letter from the Pictorial Review people, offering me the agency at Coldwater, and I am writing to you, to ask you if your Clause No. 13 in my contract with you, interferes with this, as if so, have I your permission to accept their agency.

I have handled Pictorial Review for a number of years, but have never held the exclusive wholesale agency.

I cannot see that it would interfere with my Curtis work, as it calls for no street sale, or sale by boys, but simply to deliver to book stores who now get them from a news company.

Hoping to receive an early and satisfactory reply, I am

Yours,

"HERMAN RE."

(Rubber stamps):

"Mar 1 1917
Daily Mail M"

"Received
Mar 1 1917
F. M. B."

"R 109 Mar 1 1917"

"O. K.
C"

"Daily Mail
Mar 1 1917
Scatter"

By MR. DALY:

Q. Will you look at this letter dated March 3, 1917, from the Curtis Company to you (handing paper to witness)? Did you receive that?

A. Yes.

MR. DALY: We offer this.

MR. MILBURN: That is all right.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 109," the same being in the words and figures as follows, to wit):

COMMISSION'S EXHIBIT No. 109.

"March 3, 1917.

Mr. Herman Re
Coldwater
Michigan

Dear Mr. Re:

In reply to your letter dated February 27:

Our mutual interests, yours and ours in com-

mon, will be best served by your not making any arrangements to wholesale the other periodical referred to.

One fundamental fact stands out prominently: There is a limit to the number of periodicals seeking circulation among readers of the same class, which a District Agent can handle without taking on the limitations of a branch of the news company. We have District Agents because we need representatives free from such limitations. You are our valued representative because you have heretofore been free from such limitations.

That you may get our exact shade of meaning, let me quote from a letter recently mailed to a Curtis District Agent in another state, of whose loyalty to us we were not wholly confident as we are of your loyalty.

In this letter to the other District Agent we said:

> 'If you undertake it (wholesaling the other periodical mentioned), directly or indirectly, we should wish to cancel your arrangements with us.'

There is nothing temporary or uncertain about our policy of continued direct supplies to District Agents including you, in accordance with our contracts; and our mutual interests, yours and ours alike, will be best served by the maintenance of methods and policies above mentioned.

At your convenience in the course of a few days, we shall be very glad to have you tell us what is your preference with respect to the continuance of the very pleasant relations which have so long existed between us.

We are much interested in any increased local efforts for larger sales of THE COUNTRY GEN-

TLEMAN and are willing and anxious to pay handsome, liberal bonuses for increases in net sales of THE COUNTRY GENTLEMAN during months to follow.

With kind personal regards,

Very truly yours,

THE CURTIS PUBLISHING COMPANY,

Dictated by *District Manager.*

MED SM"

(Rubber stamped): "Refer to Mr. Douglas."

By MR. DALY:

Q. Now, you were asked according to these letters to take on "The Pictorial Review"?

A. I was.

Q. For your customers; did you do it?

A. No.

Q. Why?

A. Why, simply because I knew I had a contract with the Curtis publications.

Q. How many Curtis magazines did you handle —do you handle?

A. 180 "Post," 90 "Ladies' Home Journal"—now, I believe that is a close figure. I may have changed the order lately. And 20 "Country Gentleman."

Q. Were you seen by any agent of The Pictorial Review Company with reference to this?

A. I was not.

Q. Do you handle "Every Week"?

A. I do not.

Q. Why?

A. I do not care to.

Q. But not on account of this contract?

A. I didn't think about it at all. I never was asked, didn't care because there was not enough sale.

Q. You were not approached to handle it?

A. No, sir.

Q. When did you begin this wholesale magazine and paper business?

A. The paper business I could not tell you the correct date. It is away along fourteen or fifteen years ago.

Q. What magazines did you take on first?

A. Curtis.

Q. And then what ones did you take on?

A. The International group.

Q. What are those—the Hearst papers—Hearst magazines?

A. "Hearst" and "Cosmopolitan," and "Motor," etc.

Q. Now, were you required to put up cash security with the Curtis Company?

A. I was.

Q. How much did you put up?

A. None the first contract.

Q. Well, not under the first contract, but afterwards you were required, weren't you, to put up cash?

A. Why, on "The Saturday Evening Post" I did not put up—I put up a security bond like I did for everybody else. And later, in—a year or so later, a year, I believe, now, I was going to make the same form of contract, and Mr. Spofford was not in the city that day so they only required, I think, twelve or fifteen dollars, and I paid that in cash because I was satisfied with the contract.

Q. When did you do that?

A. A year after.

Q. A year after the date of this first contract?

A. For the "Ladies' Home Journal," yes. You got my contract—I believe this is the one.

Q. The first contract required you to put up a bond, is that it?

A. No, it required to put up twenty-five dollars in cash, which I refused, and we corrected the contract —not knowing The Curtis Publishing Company.

MR. MILBURN: He got over it.

MR. WELCH: He got confidence later.

By MR. DALY:

Q. Does the American News Company handle any magazines in your community?

A. I could not say. I don't believe so. There is, I believe, a book store buys some of the magazines through the News—Detroit News Company. No. I would not say. I could not tell you that.

Q. How many news dealers do you serve?

A. There is two. There is only two.

Q. You have already answered that.

A. Yes.

MR. DALY: That is all.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. Mr. Re, you distribute your magazines, you said, through carriers and through boys.

A. I do mostly, except—

Q. And you identify some of your boys as Curtis boys.

A. I do.

Q. And in obtaining those boys have you worked in conjunction with Mr. Reynolds and the Curtis people to get the boys?

A. For the Curtis publications?

Q. Yes.

A. The International I do not. They have no boy system.

Q. Your boys are all Curtis boys?

A. They are.

Q. How many of them have you?

A. Why, right now fifteen.

Q. And you make the regular weekly reports to the Curtis publications?

A. I do.

Q. On their sales?

A. I do.

Q. Is that correct?

A. Yes.

MR. MILBURN: That is all.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. Do your boys sell—

MR. SPIESS: Wait a minute.

By MR. DALY:

Q. Do your boys sell anything besides Curtis publications?

A. They do not.

Q. Do they sell newspapers?

A. Why, some carries the route.

Q. Some of them do serve newspapers?

A. Yes, carries the route. I generally take the best Post boy for a good carrier.

Q. And some of them do sell newspapers?

A. Yes; some on salary, weekly salary. They don't sell, they carry to the customer for me on weekly salary.

Q. Well, how do you handle your newspapers?

A. Regular customers, monthly and weekly collections by me.

Q. Don't you sell any papers to boys?

A. I do not.

MR. DALY: That is all.

MR. MILBURN: That is all.

(Witness excused.)

HARVEY STOFFLET, called as a witness on behalf of the Commission, having been first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. What is your name?

A. Harvey Stofflet.

Q. Where do you reside?

A. Ann Arbor, Michigan.

Q. How large a city is that?

A. Twenty thousand.

Q. What do you do there, Mr. Stofflet?

A. Newspaper business; that is, as an agent for newspapers and magazines.

Q. A wholesale man?

A. Wholesale and retail.

Q. What magazines do you handle?

A. I handle the Curtis publications and also the International Company's magazines—publications.

Q. Any others?

A. Literary Digest.

Q. Collier's Weekly?

A. Collier's, yes, in a wholesale way.

Q. Do you handle newspapers?

A. Yes, sir.

Q. How long have you handled newspapers?

A. About twenty-five years.

Q. How long have you handled the International publications?

A. Oh, I should say—well, I believe ever since they put their magazines on that plan. I could not say exactly how long; perhaps five years.

Q. What plan do you mean?

A. Well, we handled their newspapers and then we were requested to take on their magazines when they—

Q. You mean the Hearst newspapers?

A. The Hearst newspapers; as agents for their Chicago papers we are supposed to handle also their magazines—the Hearst newspapers.

Q. When did you begin to handle the Curtis publications?

A. Well, I should think I have been handling them for ten years.

Q. Have you a contract with that company?

A. I seem to have two here. One—I suppose the latest one is the one you want. (Producing papers.)

Q. I show you a contract dated March 7, 1914——

MR. MILBURN: Is it clear, Mr. Daly, that that is not his first contract?

MR. DALY: No. This is the regular contract we are talking about?

MR. MILBURN: Just so that is stated on the record.

MR. DALY: Yes.

By MR. DALY:

Q. On March 7, 1914, with the Curtis company; will you look at that contract? Is that the one you are now operating under?

A. Why, to the best of my belief it is. I see that I had two among my files. This seems to be the last one.

Q. Will you look at Section 13 of that contract?

A. I didn't look it over carefully because I supposed I had it when I discovered this contract.

Q. No; this is Section 11. Look at Section 11 in this contract. Will you look at Section 11 in that contract? (Indicating.)

A. Yes. (Witness examines paper.) Yes, I have read that.

Q. What section is that?

A. Section 11.

Q. What is it about?

A. Regarding the handling of other publications

without the permission of The Curtis Publishing Company.

Q. Are you permitted to handle other publications under this contract without the consent of The Curtis Publishing Company?

A. I am not.

(After discussion off the record.)

MR. WELCH: Do you want to put that in the record?

MR. DALY: Clause 11.

MR. MILBURN: That is identical with Clause 13 referred to in the former testimony.

MR. DALY: That is agreed?

MR. MILBURN: Yes.

By MR. DALY:

Q. Were you asked to handle any other publications since making that contract?

A. Yes, I have been asked to handle other publications.

Q. What did you do when you were asked?

A. Well, in the case of the "Every Week," I—while I did not take it on myself I handled it through a name of a young man in the office. That is, it was his agency—the "Pictorial Review" I simply did not take on at all.

Q. Why, now, did you handle this through the—the "Every Week," through the man in your office?

A. Because my contract would not allow me to take it.

Q. Well, whose equipment distributed the "Every Week"?

A. Well, there wasn't any equipment necessary for the "Every Week." There wasn't enough business to require it at that time.

Q. Did you notify the company, the Curtis Company, that you were handling "Every Week"?

A. Why, not until I was asked by Mr. Reynolds if I did handle "Every Week."

Q. Will you look at that letter, a letter dated 2-7, 1917? (Handing paper to witness.)

A. Yes.

Q. Did you receive that letter from the Curtis Company?

A. Yes—well, that is to the Curtis Company.

Q. Did you write that letter rather to the Curtis Company?

A. Yes.

MR. DALY: A letter dated 2-7, 1917—we offer this letter.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 110," and the same is in words and figures following, to wit:)

COMMISSION'S EXHIBIT 110.

(On letterhead of:)

"HARVEY STOFFLET
ANN ARBOR, MICH.
110 E. Washington
2/7, 1917

The Curtis Publishing Co.
Philadelphia, Pa.

Dear Sirs:—

Your form letter regarding Clause No. 13 in my contract is at hand and is very timely. I suppose the publication referred to is Every Week.

There has just occurred in Ann Arbor a change of agents for the Detroit News. The former agent was also the local Every Week man.

The Every Week agency is offered to me and I wish your permission to accept same.

The Every Week circulation in Ann Arbor is less than 300, but all of my dealers handle it and so do some of the Post boys. In my judgment the C. P. Co. will gain more than they will lose by allowing their agent to handle both publications. It is surely safer to have this Every Week in my hands where I can watch and control it, than otherwise. I would not think of allowing my Curtis circulation to suffer because the other line.

---

Please give this your usual fair consideration and let me hear from you by return mail.

Very truly,
HARVEY STOFFLET."

(Rubber stamped:)

"SCATTER
FEB 9 1917
Mr. Donnelly"

"DAILY MAIL
RECEIVED
FER 9—1917
F. M. B."

"R 109 FEB 8 1917

ANSWERED
FEB 13 1917
M. E. D."

By MR. DALY:

Q. Did you continue to handle "Every Week" then, in that manner, that is to say, through this other man?

A. No, only until Mr. Reynolds advised me that if I handled "Every Week" or "Pictorial Review," I could not handle Curtis publications.

Q. Then this man in your office stopped handling it?

A. Yes.

Q. After this notice, is that correct?

A. Well, not after that notice, but after Mr. Reynolds had seen me.

Q. Who is this Mr. Reynolds?

A. Mr. Reynolds of The Curtis Publishing Company.

Q. One of their representatives?

A. Yes, sir.

Q. Will you look at a letter dated March 7, 1917, addressed to you, and apparently from The Curtis Publishing Company? (Handing paper to the witness.)

A. Yes, I remember receiving that letter—that is, the detail of it or the general substance of it.

MR. DALY: I offer this letter.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon the said letter was received in evidence by the Examiner, was marked "Commission's Exhibit No. 111," and the same is in the words and figures as follows, to wit:)

COMMISSION'S EXHIBIT No. 111.

"Pic

March 7, 1917.

Mr. Harvey Stofflet
110 East Washington Street
Ann Arbor, Michigan

Dear Mr. Stofflet:

From our Mr. Reynolds we have a letter in part as follows:

'I took up with Mr. Stofflet the question of Every Week and The Pictorial Review and was informed by him as follows:

In re Every Week. An employ of Mr.

Stofflet by the name of Bird has the contract, putting the copies out from Stofflet's store. (I consider Stofflet the agent, not Bird.) Three or four of the boys who sell Posts sell Every Week.

In re Literary Digest: Mr. Stofflet says he has made arrangements to handle it, but has signed no contract as yet.'

We have looked over our correspondence with you on this subject and we find we have good reason to believe that you were not without information as to the effect of that clause in your contract which covers the question of your wholesaling periodicals other than ours.

But, we do not find any record of receiving from you any communication asking for our approval of an arrangement between you and The Pictorial Review. We also find that on February 13 we advised you that we could not continue our Ann Arbor agency in the hands of a wholesaler also distributing Every Week.

From my personal announcements at conferences at which you were in attendance and from your contract and previous letters from us, we find reason to believe that you had notice of the effect of the clause in your contract by which you pledged yourself to obtain our approval before making any arrangements to wholesale periodicals other than ours.

Mr. Reynolds says that you gave him your personal assurance that you will not wholesale The Pictorial Review without our sanction and that after three weeks you will no longer directly or indirectly, wholesale Every Week without it. These assurances to our Mr. Reynolds square with the promises previously given us in your contract.

The representations to you by our Mr. Reynolds cannot have left in your mind any possible doubt as to the effect of the particular clause in your agreement and as to our course of action in matters covered by it. It seems reasonable for us to conclude that hereafter should other publishers approach you with similar offers, you will first write for our approval according to the promises given us in your contract and confirmed by verbal assurances given our representative Mr. Reynolds last week.

As stated in another letter, our disposition is to concede to the individual interest of a District Agent everything we can without sacrificing mutual interests; but there is a limit to the number of periodicals seeking circulation by the same methods among readers of the same class, which a District Agent can handle without taking on the limitations of a branch of the news company. We have District Agents because we need representatives free from such limitations. You are our valued representative because you have heretofore been free from such limitations.

Mr. Reynolds was quite right in the advice given you. You have seen other publishers announce a policy of direct supplies to wholesalers only to go back to the news company when they found it to their advantage to do so. In your time and mine this has happened more than once. On the other hand, there is nothing temporary or uncertain or in the nature of 'chestnut pulling' about our policy of direct supplies to District Agents including you, in accordance with our contracts; and our mutual interests, yours and ours alike, will be best served by the maintenance of our present methods and policies.

As to other magazine profits—the best hope of Curtis District Agents as a class lies in the maintenance of our policies with respect to independent distribution. Our sales organization has succeeded because heretofore our District Agents have been free from news company limitations and they and we alike will not fail to appreciate the necessity of our District Agents keeping free from such limitations if our independent distribution is to be successfully maintained.

"It is for these reasons that Mr. Reynolds advised you as he did and his advice was good. For, ' a bird in the hand is worth two in the bush.'

Very truly yours,

THE CURTIS PUBLISHING COMPANY,

Dictated by *District Manager.*

MED SM"

By MR. DALY:

Q. Now, how many "Every Weeks" were you handling, or this man in your office handling?

A. One hundred and fifty.

Q. How long did he handle it?

A. Oh, three or four weeks.

Q. Now, you say you did not take on "The Pictorial Review"?

A. No, I did not take on "The Pictorial Review."

Q. Did you ever handle it?

A. Only in a retail way.

Q. How do you reach the dealers in your city?

A. We have a delivery system of getting to them by truck and carrier, and other ways—delivery service, you might say.

Q. You have a good delivery service?

A. Complete delivery service.

Q. How many dealers do you serve?

A. I should think about twenty.

Q. What sort of men are these—in what business are they engaged?

A. Speaking of dealers, of course; that is, not boys.

Q. No, speaking of dealers.

A. They are engaged in cigar stores, drug stores, newsstands, hotels.

Q. How do you find out about the distribution of magazines through them? Do you look into that or not?

A. Well, we make a weekly collection and check up their orders, and collect what is sold and adjust their orders.

Q. Does the American News Company do any business in your city?

A. Yes, sir.

Q. That you know of?

A. Yes, they have.

Q. How do they distribute?

A. Well, they distribute simply by express from the Detroit branch—express and mail.

Q. Do you know how many of these retailers they serve in that way?

A. Well, possibly I should imagine they have ten or twelve accounts—in that neighborhood.

Q. Will you look at this letter dated February 13, 1917, from the Curtis Company to you, and the reply at the bottom of the page (handing paper to the witness)?

A. Yes.

MR. DALY: We offer this letter.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon said letter was received in evidence by the Examiner, was marked "Commission's Exhibit No. 112," and the same is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 112.

(On letterhead of)

"THE CURTIS PUBLISHING COMPANY

February 13, 1917.

Mr. Harvey Stofflet
110 East Washington Street
Ann Arbor, Michigan

Dear Mr. Stofflet:

In reply to your letter dated February 8:

In justice to you and to avoid any situation which would be embarrassing to both you and us, we feel it our duty to say that if you were to undertake to wholesale the periodical mentioned by you, we should wish to cancel your arrangements with us.

Doubtless you will recall the discussion of the general subject at the Convention of District Agents from your territory several years ago. For reasons there stated fully we believe that our mutual interest—yours and ours together, will be best served by the policy above stated.

Our relations have been so very pleasant and satisfactory that we hope to be able to serve you indefinitely hereafter. And we shall look for a letter at your early convenience giving us your decision in the matter.

With every good wish and kind thought for you personally, we are,

Very truly yours,

THE CURTIS PUBLISHING COMPANY,

J. F. ——woody (?)

Dictated by *District Manager.*

MED BHL"

(Rubber stamps):
"Received
Feb 19 1917
Bonus Section"
"Feb 20 1917
F. M. B.'

"Answered
Feb 20 1917
M. E. D."
"R 109 Feb 19 1917"

"Answered
Feb 20 1917
M. E. D."

(Penned reply on bottom of page):

"Dear Sir:

I of course will sign no contracts which conflict with yours, without permission.

H. STOFFLET."

By MR. DALY:

Q. How many "Posts" do you handle?

A. I am getting 675 at present.

Q. How many "Ladies' Home Journals"?

A. Around 375.

Q. How many "Country Gentleman"?

A. Forty.

Q. Under your contract you are required to put up a cash bond?

A. Yes, sir.

Q. Did you put up that bond?

A. I did.

Q. How much did you put up?

A. Fifty dollars.

Q. Did any representative of "The Pictorial Review" ask you personally about taking on their papers?

A. Yes.

Q. What did you say to him about that?

A. I could not do so under my—without permis-

sion from the Curtis people, and I could not get that permission.

Q. Did you or not advise this representative as to how many copies you could handle?

A. Did I? Repeat that question. Did I what?

Q. Did you discuss with this "Pictorial" representative how many copies you could handle, in the event that you could put it on?

A. Why, I could not say positively; I think very likely.

Q. You think very likely?

A. Yes, sir.

Q. Do you remember about how many—I don't mean to a single copy.

A. Well, I can't remember how many I said at that time. I should have said at that time perhaps two hundred.

MR. DALY: That is all.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. You said that the American News Company, through its Detroit branch, serves some of the dealers in your town—is that correct—in your city?

A. Yes.

Q. It is true, is it not, that any dealer can secure copies of magazines from the American News Company, on request?

A. Yes, sir.

Q. When you had a conversation with the agent from "Pictorial" with reference to how many copies you thought you could handle if you took on the "Pictorial," that was just your estimate given to him. wasn't it?

A. It would have been, yes.

Q. You never handled it at all?

A. No, not in a wholesale way.

Q. How many copies of "Cosmopolitan" do you handle an issue?

A. I believe my order is five hundred.

Q. What is your biggest—what paper has the largest circulation that you handle?

A. Well, so far as the circulation is concerned, "The Saturday Evening Post"—that is, in the list of magazines.

Q. And the bulk, the total of the three Curtis publications, is quite a material element in your business, is it not?

A. I don't think it is as much as the International Magazine Company stuff.

Q. But I mean——

A. Yes, it is material——

Q. It is a substantial number?

A. The reason I hold to those is because we make the most money on those of any other agency, I suppose—that is, of the ones in dispute, at least.

MR. DALY: What was that answer?

(The answer was read.)

MR. DALY: Well, now I object; I think that ought to be stricken out.

MR. MILBURN: I consent that "of the ones in dispute" may go out.

By MR. MILBURN:

Q. You did not mean the "Pictorial" when you said that, did you?

A. Well, I mean that I would make more money on the Curtis agency than I would on the "Pictorial."

MR. MILBURN: Strike that out.

MR. DALY: You are not handling the "Pictorial"?

THE WITNESS: No.

MR. DALY: Then I ask that be stricken out.

MR. MILBURN: From the words "that is, the ones in dispute."

By Mr. Milburn:

Q. And you distribute those magazines—how do you distribute them?

A. Well, the dealers are supplied by our truck, and the boys call at the office for them.

Q. You supply boys with magazines?

A. With the Curtis magazines.

Q. And you have a regular staff of Curtis boys, have you not?

A. Yes, sir.

Q. How many boys—— And you make weekly reports to the Curtis Company?

A. Yes.

Q. How many of those boys do you report—about?

A. Well, I think we have perhaps twenty active boys at the present.

Q. You are familiar with the Curtis League of Boys?

A. Yes, sir.

Q. Have some of your boys become members of the league?

A. A few of them.

Q. And have any of them been promoted?

A. Yes, sir.

Q. On those promotions you get a certain bonus, don't you?

A. Yes.

Q. In handling these boys, have you received aid from the Curtis Company?

A. Yes, I would say so, lots of it.

Q. And you have worked in conjunction with Mr. Reynolds, have you not?

A. Yes, sir.

Q. In getting them and keeping them up to the mark?

A. Yes.

Q. You began handling Curtis publications ten years ago; didn't you?

A. Yes.

Q. And this contract of 1914 was an interim contract?

A. Yes, sir. Of course, my statement of ten years is simply a guess.

MR. DALY: Well, it is not a guess, it is somewhere around there?

THE WITNESS: Oh, yes.

By MR. MILBURN:

Q. If I refresh your memory, October 9, 1909, I think, was your first contract. Does that correspond to your recollection?

A. Yes, the month especially, and no doubt the year is all right.

MR. SPIESS: That is less than nine years?

THE WITNESS: Yes.

MR. DALY: That is nine years ago—less than nine.

THE WITNESS: Yes.

By MR. MILBURN:

Q. You wholesale other magazines?

A. I wholesale the International stuff, and the "Literary Digest," and the "Collier's."

MR. MILBURN: That is all.

THE WITNESS: I wonder if I might make a statement.

MR. DALY: What about?

THE WITNESS: Well, simply in regard to the boys. We have never—of course, this may be stricken out—we have never attempted, or we have never asked to make a distribution of these other

publications through these boys. What we have often wanted, and what the other agents have wanted, is to take on the news stands and general wholesale distributions, that was all.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. Now, the boys in these reports that you have made to the company, are they boys in all cases that did not handle anything else except the Curtis papers?

A. Why, some of them handle newspapers, but they are peculiarly a Curtis organization, those boys.

Q. I am not asking that; I am asking you what do they handle?

A. Well, we can't prevent them handling newspapers, and we don't solicit their business on other stuff.

Q. Why can't you prevent them from handling newspapers?

A. Well, I would not say, or put it that way. We don't solicit their business on—why can't we? Did you say, why can't we prevent?

Q. Yes.

A. Oh, well, I don't suppose anybody can go to a boy and say, "Here, you are handling 'Posts' and you must not handle anything else." They are under no contract, the boys.

Q. Now, how many boys did you say you have been reporting?

A. Twenty. It varies.

Q. About how many of those handle newspapers?

A. Oh, perhaps half of them—perhaps ten of them.

Q. Do any of those boys handle any other magazines at all?

A. Not to any extent.

Q. Well, do they at all? Do they come in and get them from you?

A. Yes, some of those boys have sold "Every Weeks."

Q. Some of those boys?

A. Yes, sir.

Q. That you are reporting?

A. Yes, sir.

Q. And if any of those boys would come in and ask for an "Every Week," when you were handling it, you would permit them to do it, wouldn't you?

A. Yes, and they would sell it to anyone that would ask for it.

Q. Now, what proportion, approximately, of your business is made up of the Curtis publications?

A. One-twentieth.

Q. That is, the wholesale business?

A. Yes, sir.

MR. DALY: That is all.

MR. WELCH: How much did he say?

MR. DALY: One-twentieth.

RE-CROSS-EXAMINATION.

By MR. MILBURN:

Q. How many magazines do you handle in all, and papers?

A. I don't know; it would be hard to guess.

Q. Can you give an approximate figure? I don't mean an accurate figure.

A. Well, we handle perhaps a thousand of the International Magazine Company's stuff. Then we have our retail trade. A matter of 125 or '30 "Collier's," and some in "Literary Digest," and wholesale——

Q. I mean numerically, how many newspapers and magazines? I don't mean what the issues are.

A. Well, daily, or weekly or monthly?

Q. Well, do you handle twenty or fifty?

A. Different magazines?

Q. Yes.

A. Oh, we handle—let's see, do you mean wholesale, retail, or both?

Q. Wholesale.

A. Wholesale—oh, perhaps of newspapers, twenty.

Q. And when you said that the Curtis business was one-twentieth——

A. Maybe I am wrong in that—fifteen to twenty.

Q. Well, you said the Curtis business was one-twentieth; did you mean all your business, or the wholesale?

A. All my business.

Q. Then it would be more than that in your wholesale business.

A. Oh, yes; my wholesale business—it would be perhaps one-fifth. Those are hard things to get at without the records.

Q. That includes newspapers, too, doesn't it?

A. Yes.

MR. MILBURN: That is all.

MR. DALY: One more question.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. What other business do you have? What other boys do you have, besides these Curtis boys?

A. Oh, the regular newspaper salesmen and carriers.

Q. How many of them do you have?

A. Fifty—well, more than that. Sixty or seventy.

Q. Wholesale boys?

A. Well, those are retail boys, boys who buy their stuff wholesale, with reference to the Sunday papers and daily papers.

Q. What do they handle?

A. Detroit papers, and Chicago, daily and Sunday.

Q. Do they ever handle any magazines?

A. Not very much.

Q. Well, do they at all?

A. Only so far as those ten that I mentioned might handle both magazines and newspapers.

Q. What ten are you referring to?

A. Well, you asked me which proportion of my boys handled both Curtis Publishing Company's stuff and newspapers. I said ten of them handled newspapers also.

Q. Ten out of the twenty?

A. Yes, sir.

Q. Now, did you ever—did you or not have boys before you took on the Curtis papers?

A. Oh, yes.

Q. You have testified about some boys being promoted; how many?

A. Well——

Q. Do you recall?

A. I think I have just one boy that has been promoted, all the way along the line—Master Salesman, I believe they call it.

Q. That is covering the whole period of this agency?

A. Yes.

Q. Of your contract?

A. Yes, sir.

MR. DALY: That is all.

RE-CROSS-EXAMINATION.

By MR. MILBURN:

Q. With which magazine publishing house, with whom you do business, do you have the largest volume of business?

A. Well, it would be very nearly a stand-off between the International magazines and the Curtis magazines. It might fluctuate one way or the other.

MR. DALY: You mean the "Hearst's"?

THE WITNESS: "Hearst's." Hearst publications.

MR. DALY: Yes.

By MR. MILBURN:

Q. You drew—Mr. Stofflet, you drew a distinction between the newsboy—corner boy—and the Curtis boy; what is that distinction? What is the difference between them?

A. Well, they are the boys from the better class of families, that handle only Curtis publications.

Q. And the others are just newsboys you see around the street?

A. The ordinary newsboys; of all classes.

MR. MILBURN: That is all.

MR. DALY: That is all.

(Witness excused.)

---

JOHN C. DREHER, called as a witness on behalf of the Commission, having been first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. What is your name?

A. John C. Dreher.

Q. Where do you reside?

A. Battle Creek, Michigan.

Q. What do you do?

A. Wholesale retail news agent.

Q. How long have you been engaged in that work?

A. Since July 1, 1911.

Q. What papers and magazines did you handle at the beginning of your agency?

A. Chicago and Detroit papers, and "Saturday Evening Post" and "Ladies' Home Journal."

Q. Any other magazines?

A. Not at that time.

Q. When did you take on other magazines, if you did?

A. I think about two years later I handled the Publishers' News Company publications for a short time, and then gave those up.

Q. What were the publications of the Publishers' News Company?

A. The "Delineator," and "Designer," "Woman's," "Adventure," "Everybody's."

Q. Why did you give them up?

A. I believe that the Curtis Publishing Company objected to it. I haven't any correspondence on that, and I don't remember exactly.

Q. Do you still sell the Curtis publications?

A. No, sir.

Q. When did you stop?

A. Why, some time during May, 1917.

Q. Why did you stop?

A. Well, as a matter of choice, handling the Curtis publications or handling other publications.

Q. Were you under contract with them?

A. Yes, sir.

Q. Meaning the Curtis Publishing Company?

A. Yes, sir.

Q. Will you look at this contract, dated November 13, 1915 (handing paper to the witness)? Is that the contract under which you operated?

A. No, that is not mine. That is Albion.

Q. No.

A. Here is one here. That is mine, there (indicating).

Q. Strike out the date of that. Dated August 28, 1915.

A. Yes, sir.

Q. Is that the contract with the company, Curtis Company?

A. Yes, sir.

Q. Will you look at Section—Clause 13, in that contract?

A. Yes, sir.

Q. What is that clause?

A. Well, I agree to refrain from selling any other—any publications other than the Curtis publications to boys or giving any other publisher the names of the boys that handled Curtis publications.

Q. And dealers, too—doesn't it? See if it is not dealers.

A. Boys or dealers, yes.

Q. Now, while you were selling the magazines of the Curtis Company, did you handle the "Pictorial Review"?

A. No, sir; not while I was handling the Curtis publications.

Q. Were you asked by the Pictorial Review Company to handle it?

A. Yes, sir.

Q. When did they ask you to take on that paper, if they did?

A. I don't remember the exact date, but I believe it was about a year ago.

Q. 1917?

A. Yes.

Q. Will you look at this letter dated March 9, 1917, written by you to the Curtis Publishing Company, to Mr. Douglas (handing paper to witness)? Did you write that letter?

A. Yes, sir.

Q. And send it to him?

A. Yes, sir.

Mr. Milburn: No objection.

Mr. Daly: I offer this letter in evidence.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 113," the same being in the words and figures as follows, to wit):

COMMISSION'S EXHIBIT No. 113.
(On letterhead of)
"BATTLE CREEK NEWS CO., not inc.
Battle Creek, Mich.,
March 9th, 1917.

Mr. M. E. Douglas, Mgr., Sales Division.
Curtis Publishing Co.
Phila., Pa.

Dear Mr. Douglas:

In reply to your letter of March sixth in which you refuse to allow me to handle Pictorial Review, I beg to inform you that I am very much disappointed.

Your reason for not granting this privilege makes it clear to me that there would be little chance for a wholesale newspaper and magazine dealer to progress while representing the Curtis Publishing Company.

For any live man who is in business it is only natural for him to wish to expand commercially.

I believe that in a short time many magazine publishers will break from the big news company and if I am not permitted to handle their business they would sooner or later have a representative in each town and in this event I would have a competitor.

While the larger part of my business is newspapers I am in a position to wholesale magazines to a very good advantage, both for the publisher and myself. Inasmuch as I am handling any magazine I want to feel free to take on all that come

my way and which I will not be able to do if I continue to be a Curtis District Agent.

If I am eventually to have a competitor I feel that from a business standpoint I should take on the new business as it comes and which will not require me to advance $100 bond and more than another $100 for copies and to do much detail work continuously before I could make a nickel.

I ask you again to allow me to handle Pictorial Review, but, if you can not grant this request please be advised that I resign as Curtis District Agent effective April 25th, 1917.

If you accept my resignation kindly have your road man here by April 25th with full authority to make transfer and to make cash settlement with me for all credit due me, including cash bond of $100 with interest, and all returned copies. I will be prepared to turn over all lists, etc., to him.

Please understand that I regret that you have forced me to take this step but being a red-blooded American I can not stand it to be held in so close bondage in this free land of ours.

Sincerely hoping that you will grant me permission to handle Pictorial Review, I beg to remain,

Very truly yours,

JOHN C. DREHER."

(Rubber stamps):
"Received
Mar 12 1917
F. M. B."

"Answered
Mar 14 1917
M. E. D."

By MR. DALY:

Q. Now, I show you a letter dated February 28, 1917. Will you look at that—from the Curtis Company to you (handing paper to the witness)? Did you receive that?

A. Yes, sir.

MR. MILBURN: No objection.

MR. DALY: This is that general circular, and if there are no objections the stenographer can mark that as similar to other letters, being the general letter that was introduced.

EXAMINER MOORE: The letter is so received in evidence without objection.

(Whereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 114," and the same is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 114.

(On letterhead of)

"THE CURTIS PUBLISHING COMPANY

Philadelphia

Feb. 28, 1917.

Dear Mr. Dreher:

To a few Curtis District Agents, statements by another publisher or his representative have given a wrong idea about one clause of your contract with us. Therefore we again state the effect of that clause:

> You definitely agreed to obtain our approval BEFORE you make ANY new arrangements to wholesale to boys or DEALERS any non-Curtis periodical (magazine).

You are hereby cautioned against any and all advice or solicitation contrary to this part of your contract.

And you will not fail to take notice that the clause covers wholesaling to dealers as well as to boys.

Of course this does not apply to newspapers nor to arrangements in effect before the date of your contract with us.

You may not see why this letter is sent to you. Probably no one has made representations as above. But such statements have been made to others, and we therefore send this general letter to all District Agents that all may have a full understanding.

*At any time hereafter if you should desire to wholesale any other magazine, write for our approval and give us full particulars. This is the sure way to mutually satisfactory arrangements.*

Like our earlier notice dated February 5, this letter should be attached to your Curtis contract for future reference.

Very truly yours,
THE CURTIS PUBLISHING COMPANY,
M. E. Douglas,
MED *Manager Sales Division.*"

By MR. DALY:

Q. Will you look at this letter, dated March 2, 1917, from you to the Curtis Company (handing paper to the witness)?

A. Yes, sir.

MR. DALY: We offer this letter in evidence.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 115," and the same is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 115.

(On letterhead of)

"BATTLE CREEK NEWS CO., not inc.
J. C. DREHER, Prop.
Battle Creek, Mich., March 2nd, 1917.

Mr. M. E. Douglas, Sales Manager.
Curtis Publishing Co.
Phila., Pa.

Dear Mr. Douglas:

Recently I have been offered the agency of The Pictorial Review, but before accepting the same I want to obtain your consent as per clause in your contract.

The Pictorial people state that they do not wish to take advantage of any publishers agents' organization but do want the good newsstand representation which I am in position to give them and which I feel that I should be allowed to do for my benefit.

Kindly let me hear from you as early as possible as I wish to get my order in at once. My dealers are very anxious for me to handle Pictorial.

The Literary Digest also wishes me to represent them and I believe that there are a number of magazine publishers who will soon want independent representatives.

Very truly yours,

J. C. DREHER."

(Rubber stamps):

"Received
Mar 5 1917
F. M. B."

"Answered
Mar 5 1917
M. E. D."

By MR. DALY:

Q. Look at this letter, dated March 6, 1917, from the Curtis Publishing Company to you.

A. I remember receiving that.

Q. Look also at a letter of January 29, 1917, from Mr. H. B. Smith——

MR. DALY (addressing counsel for respondent): Do you know who Mr. H. B. Smith is? Is he one of your agents?

MR. MILBURN: Road man.

MR. DALY: One of the road men of the company?

THE WITNESS: Mr. Smith is a traveling representative.

MR. MILBURN: No objection to this, Mr. Daly.

MR. DALY: We offer this.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 116," and the same is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 116.

"March 6, 1917.

Mr. J. C. Dreher
Battle Creek News Company
47 North McCamly Street
Battle Creek, Michigan

Dear Mr. Dreher:

In reply to your letter dated March 2:

Our mutual interests, yours and ours in common, will be best served by your not making any arrangements to wholesale The Pictorial Review.

One fundamental fact stands out prominently: There is a limit to the number of periodicals seeking circulation among readers of the same class which a District Agent can handle without taking on the limitations of a branch of the news company. We have District Agents because we need representatives free from such limitations. You are our valued representative because you have heretofore been free from such limitations.

That you may get our exact shade of meaning, let me quote from a letter recently mailed to a Curtis District Agent in another state, of whose loyalty to us we were not wholly confident as we are of your loyalty.

In this letter to the other District Agent we said:

> 'If you undertake it (wholesaling the other periodical mentioned), directly or indirectly, we should wish to cancel your arrangements with us.'

There is nothing temporary or uncertain about our policy of continued direct supplies to District Agents including you, in accordance with our contracts, and our mutual interests, yours and ours alike, will be best served by the maintenance of methods and policies above mentioned.

At your convenience in the course of a few days, we shall be very glad to have you tell us what is your preference with respect to the continuance of the very pleasant relations which have so long existed between us.

We are much interested in any increased local effort for larger sales of THE COUNTRY GENTLEMAN and are willing and anxious to pay handsome, liberal bonuses for increases in net sales of

THE COUNTRY GENTLEMAN during months to follow.

With kind personal regards.

Very truly yours,

THE CURTIS PUBLISHING COMPANY.

*District Manager.*

Dictated by
MED SM"

(Rubber stamp): "Refer to Mr. Douglas. Pic"

THE WITNESS: Yes, I remember that (indicating).

By MR. DALY:

Q. And the reply is that at the bottom?

A. Yes. (Indicating another document.)

MR. DALY: We offer this letter, dated January 29, 1917.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 117," and the same is in the words and figures following (to wit):

COMMISSION'S EXHIBIT No. 117.

(On letterhead of):

"THE CURTIS PUBLISHING COMPANY
Philadelphia

January 29, 1917.

Mr. John Dreher,
Battle Creek,
Michigan.

Dear Mr. Dreher:

Referring to our conversation on my recent visit to Battle Creek regarding the 'Independent Weekly':

I took this matter up with Mr. Douglas personally, and in line with Clause 13 of your agreement we will ask you to discontinue your connection with this publication either directly or indirectly.

I am sure, Mr. Dreher, that you appreciate the Company's position from our conversation and that you will advise me by return mail just what we may expect. I hope your decision will be favorable to the continuance of our very pleasant relations for many years to come.

Thanking you for an early reply and with kind personal regards, I am

Sincerely yours.

H. B. SMITH."

(Penned reply at bottom of page):

"Mr. H. B. Smith.
Harvard, Ill.
Dear Sir:

In reply to the above I beg to inform you that I gave my decision to Mr. Reynolds, which was 'that I would not handle Every Week (Independent Weekly) directly or indirectly after Feb. 17th.

Very truly yours,

J. C. DREHER."

(Rubber stamp): "Noted
M. E. D."

By MR. DALY:

Q. Will you look at this letter addressed to Mr. B. A. Mackinnon of the Pictorial Review Company, dated February 22, 1917? Did you send that? (Handing paper to the witness.)

A. Yes.

MR. DALY: The purpose of that is to show the number of copies, that is all.

MR. MILBURN: That is, that he expected to sell?

MR. DALY: That he expected to sell. We offer that.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 118," and the same is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 118.

(Letterhead of):

"BATTLE CREEK NEWS CO., Not Inc.

Battle Creek, Mich., Feb. 22nd, 1917.

Mr. B. A. Mackinnon, Director of Circulation,
The Pictorial Review Company,
New York, N. Y.

Dear Sir:

In reply to your letter of February 12th I beg to inform you that I am pleased to see that another great magazine is taking the wise step of distributing through independent dealers. I am sure that you are not making a mistake.

All my dealers are always glad to get their magazines from me instead of from the News Co. You may figure on my order for a starter 250 copies of the May issue and I believe that I will be able to increase it in a short time.

I will await a few days before sending the remittance as I may be able to use a few more copies, but the check will reach you inside of ten days.

Wishing you success, I am,

Very truly yours,

J. C. DREHER."

(Penned memo.): "O K Entered 2/27/17 HZ"

(Rubber stamp):

"Address correspondence to
J. C. Dreher
47 N. McCamly St.
Battle Creek, Mich."

By MR. DALY:

Q. Now, what equipment have you for selling magazines and newspapers, Mr. Dreher? How do you distribute them?

A. Some times we distribute them with a truck, and some times we use a touring car.

Q. In what city are you?

A. Battle Creek.

Q. How large a city is that?

A. Between thirty-five and forty thousand.

Q. Is there another wholesaler in your city?

A. There is now; yes.

Q. Was there during the time of this contract?

A. No.

Q. Was there at the time that you were asked to take on the "Pictorial Review"?

A. No.

Q. Did you ever handle the "Every Week"?

A. Yes.

Q. How long did you handle that?

A. I am handling it now.

Q. When did you take on the "Every Week"?

A. I think it was along in June or July of last year.

Q. 1917?

A. Yes.

Q. Did the Curtis Publishing Company—did you notify the Curtis Company, or get their permission, rather, to handle it?

A. I had resigned at that time.

Q. Oh, you had resigned then?

A. Yes.

Q. But prior to your resignation did you handle "Every Week"?

A. I handled it indirectly; yes.

Q. What do you mean by "indirectly"?

A. A man who worked for me, who lived upstairs in the building that I used for an office, handled it in his name. That is, it came in his name.

Q. You mean the magazines came in his name?

A. Yes, sir.

Q. And how was it distributed—by you?

A. He distributed them.

Q. Through what? What means did he have for distributing?

A. Well, he carried them out; used my rig if it was necessary.

Q. Did he have a rig of his own?

A. No, sir.

Q. Now, did the Curtis Company ever object to your handling the "Every Week"?

A. Yes.

Q. Is that the reason that you handled it through this man in your office?

A. Yes.

MR. SPIESS: What is the answer?

(The answer was read.)

MR. DALY: What was the answer to that?

THE WITNESS: Yes, sir.

By MR. DALY:

Q. How many copies of the "Every Week" did you handle?

A. Well, it ran from 150 to 200.

Q. "Every Week?"

A. That ran a little over 200 at that time.

Q. "Every Week"—a weekly paper is it, or a weekly magazine?

A. Yes, sir.

Q. Now, how many copies of the "Post" did you handle while you were with them?

A. You mean from the time I started?

Q. You are not handling it now?

A. No.

Q. No—at the time that you were cut off—not cut off—at the time that you quit?

A. Why, I believe it was in the neighborhood of 1000 copies.

Q. How many "Country Gentleman"?

A. I don't remember exactly. I should say it was about 175.

Q. How many "Ladies' Home Journal"?

A. From 750 to 800.

Q. Now, what proportion of your business was made up of the Curtis Company—by the Curtis Publishing Company's publications, approximately—your wholesale——

A. Do you mean by that the proportion of the magazines, or business in general?

Q. No; I am talking about your whole business first, your newspaper and magazine business—wholesale newspaper and magazine business is what I want.

A. Oh, about a twenty-fifth. My newspaper business is the largest end of my business.

Q. In your contract there is a clause there with reference to putting up cash security, depositing cash as security; did you comply with that provision?

A. I did.

Q. What cash security did you put up?

A. One hundred dollars.

Q. That is under the contract that we have been talking about here?

A. Yes, sir.

Q. Now, how did you get these papers out to your customers, to whom did you deliver these papers and magazines?

A. Which papers?

Q. The wholesale newspapers. And——

A. Of those that I handled?

Q. Yes; of the wholesale business, how do you get them to your customers?

A. Well, newspapers, we deliver in bundles to dealers by boys, usually—part of the time by machine. Magazines we usually deliver by machine.

Q. How many dealers are there?

A. I supply about forty-five dealers all told, but there are only about thirty-five or thirty-six of these handling magazines.

Q. Do you deliver to all of these that are handling magazines, deliver magazines to them, and newspapers?

A. All dealers that handle magazines get some magazines from me—all that I handle.

Q. Where do they get the other magazines?

A. Various branches of the American News Company.

Q. And how does that company deliver its magazines there in your city?

A. Some by express; some by mail.

Q. From where, Mr. Dreher?

A. Some from Grand Rapids—some from the Grand Rapids News Company, some from the Western, of Chicago, and some from the Detroit News Company.

Q. And how do they come? Do they come by express, did you say, or by mail?

A. Yes.

Q. Who pays the express charges, if you know?

A. Why, I handled some magazines from the American News Company at one time myself, and I paid the express. That is, it was prepaid, but it was charged on the bill, so far as I know.

Q. Did you handle the "Literary Digest"?

A. Yes, sir.

Q. Did you get permission to handle that?

A. From the Curtis people?

Q. Yes.

A. Yes; in a way. I got it, I think, in reply to my request; they told me that there was no particular objection to my supplying news dealers with the "Literary Digest," but not to make any arrangement that could not be broken inside of thirty days.

Q. Did I ask you whether—as to the number of dealers, that the American News Company served, the number of accounts they have, if you know?

A. No, you did not.

Q. Can you testify to that?

A. Why, I would imagine that the American News Company supply twenty-five news dealers in Battle Creek.

Q. Out of how many?

A. About thirty-five—that is, magazine dealers.

Q. Now, of these twenty-five dealers that they supply, do you supply them also with your magazines?

A. Yes, sir.

Q. Now, then, there are ten, then, according to that, that you supply exclusively; is that correct?

A. Well, I would not say exclusively. There are about ten, I imagine, that get—that handle magazines, that I supply, and I imagine that in fact some of them——

Q. You don't imagine——

A. Some of them get copies from the Curtis agent.

Q. I am speaking now of the time when you were the Curtis agent.

A. Oh, I see.

Q. That is what I am talking about.

A. Yes, there were about ten at that time, too, that did not handle any other magazines, only the ones I was handling.

Q. How many boys had you?

A. All told? Boys handling everything, you mean?

Q. Yes; how many boys did you have as a wholesale dealer at the time that you quit business, doing business with the Curtis Company?

A. About fifty, I imagine.

Q. How many of them were what you term exclusively Curtis boys, that did not handle anything else except Curtis publications?

A. Well, I cannot recall any. Most all the boys handled something besides Curtis publications, either newspapers—or, if they called for other magazines they got them.

Q. Now, this agent that you have testified about that is in the city now since the breaking off of this contract—since you left the Curtis Company, what does he handle?

A. I know that he handles "The Post" and "Country Gentleman" and "Ladies' Home Journal." Other than that I do not know.

MR. DALY: That is all.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. Any so-called dealer, Mr. Dreher, can get the magazines there at the present moment, either from you or from the Curtis agent, or from the branch of the American News Company; can't they?

A. Yes, sir.

Q. On application?

A. Yes, sir; as far as I know.

Q. When did you first begin—start in with the Curtis people?

A. July 1, 1911.

Q. So that this contract which is in evidence, dated some time in 1915, is just a subsequent contract?

A. Yes, sir.

Q. You said that you were the only wholesaler at the time you held the Curtis agency?

A. Not all the time. At the time I resigned I was the only wholesaler.

Q. And then the Curtis people went out and established another wholesaler; is that correct?

A. Yes, sir.

Q. You said that of your whole newspaper and magazine business that the Curtis business was one-twenty-fifth of the whole business; what proportion was it of your magazine business?

A. Let's see—do you mean in profit or in copies?

Q. Copies, bulk business.

A. I think I wholesaled in the neighborhood of 12,000 magazines a month, and out of that number probably 5000 were Curtis publications.

Q. You reported each week to the Curtis Company the boys handling the Curtis publications?

A. Yes, sir.

Q. About how many boys did you report?

A. Between thirty and thirty-five, I believe.

Q. And in handling these boys, in obtaining them, and in keeping them up to their work, did you co-operate with the Curtis Company—with their agents?

A. Yes, sir.

Q. So that when you said that you had no Curtis boys, you meant that the Curtis boys you have, at times took on other magazines or newspapers?

A. Anything I had to supply them, anything they wanted.

Q. When they came to you for something else, you would give it—you would sell it to them?

A. Yes, sir.

Q. But wasn't the bulk of their business the Curtis business?

A. Not necessarily. Not the majority of them, no.

A lot of those boys sell local newspapers, Chicago papers, Detroit papers.

Q. A boy became identified with the Curtis organization when you reported him, didn't he?

A. Well, yes; sure he would.

Q. He became a regular Boy Salesman of the Curtis publications?

A. As long as he sold Curtis publications I reported his sales.

Q. And you said of these, none—there wasn't a single boy who sold only Curtis, is that correct?

A. I can't recall anyone that was an exclusive Curtis boy.

Q. Mr. Dreher, when the agency—when you resigned, and the new man took on the Curtis agency, did you turn over to him these boys, or inform him as to the boys you had been reporting on?

A. I gave him a list of boys' names, and their addresses, also the dealers, and what they had been drawing.

Q. And was that the thirty-five boys you spoke of?

A. Yes.

Q. That you had reported on?

A. Yes, all boys that had been buying Curtis publications, I gave him their names and addresses.

Q. Mr. Dreher, in delivering these magazines, the boys come to your store and get them, and then take them out and deliver them on foot or on bicycles to their customers; isn't that true?

A. Yes, sir.

Q. When you deliver the magazines by machines?

A. That is, to dealers.

Q. What?

A. That is, to dealers.

Q. To dealers?

A. I did deliver, made a point to deliver magazines to one boy.

Q. Does the American News Company handle certain magazines that you do not handle?

A. Yes, sir.

Q. And so as to those the only way a dealer in your town could get them—in your city, could get them, is from the American News Company?

A. Either directly or indirectly.

Q. And so as to the magazines you do not handle, the American News Company covers all of the dealers, doesn't it?

A. Not entirely all of them. There are a few that get only the magazines that I handle.

MR. MILBURN: I see. That is all.

MR. DALY: What was that last question?

(The record was read.)

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. That is the ten you have referred to in your former testimony?

A. Yes, with the exception of, I suppose, they get some Curtis publications from the Curtis agent.

MR. DALY: That is all.

MR. MILBURN: That is all.

MR. DALY: Just wait a minute, Mr. Dreher.

By MR. DALY:

Q. Is that a letter written by you to Mr. Douglas?

A. Yes, sir.

MR. DALY: I omitted that. I had laid that down. (Handing paper to opposing counsel.)

MR. MILBURN: I think it is in, but there is no objection.

MR. DALY: Oh, yes, it is in. That is all.

(Witness excused.)

CHARLES C. HALL, called as a witness on behalf of the Commission, being first duly sworn, testified as follows:

DIRECT EXAMINATION.

Q. What is your name?

A. Charles C. Hall.

Q. Give your address.

A. Kalamazoo, Michigan.

Q. And your business?

A. General news dealer.

Q. Is that what you call a wholesale news dealer?

A. Wholesale news dealer.

Q. How long have you been such dealer?

A. A little over eight years.

Q. What have you handled at the beginning, and your entering business, when you entered business?

A. Well, the bulk of my business was newspapers, and the only magazines I handled were the Curtis publications at that time.

Q. And you took on other magazines afterwards, did you?

A. Very shortly. Very soon afterwards I took on the "Red Star," or the Munsey publications.

Q. Were you under contract ever with the Curtis company?

A. Yes, sir.

Q. Have you the contract?

A. Yes, sir.

Q. Are you still with them?

A. No, sir.

Q. Why?

A. They terminated my contract.

Q. Is this the contract, dated February 12, 1916?

A. Yes, sir.

Q. That you last operated under?

A. Yes, sir.

Q. Will you look at clause 13?

A. Yes, sir.

Q. What is that clause about, if you know?

A. Why, it is to refrain hereafter from wholesaling to boys or dealers, or from attempting to influence any Curtis agent to sell any periodicals other than those published by the Curtis Publishing Company, and to refrain from furnishing any other publisher or his agent with the names, etc.

Q. While you were under that contract did you—were you asked to take on any other magazine?

A. Yes, sir.

Q. What one?

A. The "Pictorial Review"—well, the Publishers' News Company was the first. That included "Everybody's," and one or two others.

Q. Well, that was not under this contract, that must have been under the former contract.

A. Oh, yes, that was under a former contract.

Q. When was that?

A. Oh, I think that was in 1911 or 1912; 1912, I think.

Q. Have you that contract with you?

A. No, I have not that contract here.

Q. Was there a provision similar to this in that contract, do you know?

A. I would not state definitely. I think so.

Q. Did you take them on or not?

A. I took them on, and was forced to throw them out.

Q. Did the Curtis company object—was that the reason?

A. For a time, and later withdrew their objection and I took them back.

Q. Now, you say you were asked to handle the "Pictorial Review"; what happened about that?

A. I bought one month's copies of the "Pictorial Review."

Q. When?

A. Without saying anything to the Curtis, and later their agent came to me and objected.

Q. When, when was that?

A. Well, the dates I cannot remember.

Q. About when?

A. It seems to me it was last summer some time—last spring. I think it was March, February or March, somewhere along in there, about the 1st of March, I think.

Q. Of last year?

A. Yes. I have got the date here. I can look it up.

Q. Well, that is near enough. Did you request the Pictorial Review Company to permit you to handle these publications?

A. No, sir.

Q. The Curtis Publishing Company, I mean.

A. Why, after they told me to throw it out I wrote several letters making such requests, and telegraphed.

Q. Did they agree to permit you to do it?

A. They refused both by telegram and letter.

Q. Will you look at a letter dated February 28, 1917, that is signed by you, and addressed to M. E. Douglas, sales manager of the Curtis Publishing Company, in which you wrote with reference to the handling of the "Pictorial Review"? (Handing letter to the witness.)

A. Yes.

Q. Did you send that letter?

A. Yes, sir. I have his copy here.

MR. DALY: We offer this letter in evidence.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 119," and the same is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 119.

(Letterhead of):

"KALAMAZOO NEWS CO., INC.

Kalamazoo, Mich., Feb. 28, 1917.

M. E. Douglas, Sales Mgr.,
Curtis Publishing Co., Philadelphia, Pa.

Dear Sir:

Some time ago we received a wire from you finally forbidding us to handle The Pictorial Review and promising us a letter on the same. This we have not received. We would like to know why the Curtis Company wishes to bar us from the extra profits we might make on a publication that in its letter to (it) says it has definitely abandoned any idea of selling through boys but is only seeking a better representation on the stands than the American News Co. is now giving it. It is hard for us to understand the attitude of the Curtis Co. in these matters. Why are you not willing as are the newspapers to enter fairly into competition with other publications? No newspaper endeavors to bar another from any agency. All the dealers want the Curtis business but we do not want to be barred from securing a big magazine business when we see it headed our way. Do you think that you can long restrain the other magazines in their endeavor for better representation? Do you not think many of your agents will be embittered by your course?

Today we received a letter from Literary Digest asking us to represent them. Seeing no possible objection to this magazine, we have accepted, subject to your approval.

Very truly yours,

KALAMAZOO NEWS CO.

C. C. Hall."

Rubber stamp): "Received
Mar 2 1917
F. M. B."

By MR. DALY:

Q. Did you receive a reply to that letter, or not?

A. Indirectly. A letter came, signed by J. F. Donnelly, and countersigned by Mr. Douglas.

Q. Have you that letter?

A. I think I have.

Q. Your agency is the Kalamazoo News Company, is it, Mr. Hall?

A. Yes, sir. (Witness produces papers.) I think that is the reply. Yes, that is the reply.

Q. Will you look at this letter, dated March 5, 1917, from Mr. Douglas of the Curtis Company to you?

A. Yes.

Q. Was that received by you?

A. Yes, sir.

MR. DALY: We offer this letter.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 120," and the same is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 120.

(On letterhead of):

"THE CURTIS PUBLISHING COMPANY
Philadelphia

March 5, 1917.

Attention of Mr. C. C. Hall.
Kalamazoo News Company,
308 North Rose Street,
Kalamazoo, Michigan.

Dear Mr. Hall:

Our letter dated February 26 referred to in our telegram dated February 23 doubtless reached you shortly after your letter dated February 28

was mailed to us. Presumably the two 'crossed' in the mails.

Your letter indicates a slight misunderstanding of our policies. They are not to bar District Agents from extra profits that they may earn, but rather that we may have District Agents free from limitations such as branches of the news company work under.

As stated in another letter our disposition is to concede to the individual interest of each District Agent everything we can without sacrificing mutual interests. But when mutual interests are sacrificed, the District Agent's individual interests suffer in the end.

Our policy makes for continued profits for Curtis District Agents by the maintenance of those fundamental conditions which make any periodical profits possible for independent wholesalers.

Very truly yours,

THE CURTIS PUBLISHING COMPANY,

J. F. Donnelly,

*District Manager.*

Dictated by
MED BHL
M E Douglas"

By MR. DALY:

Q. Will you look at this telegram dated February 22, 1917, from the Kalamazoo News Company to the Curtis Company? Did you send that? (Handing telegram to the witness.)

A. Yes, sir.

Q. Is that the reply? (Handing another telegram to witness.)

A. Yes, sir.

MR. DALY: We offer these telegrams.

EXAMINER MOORE: The telegrams are received in evidence without objection.

(Whereupon the said telegrams were received in evidence by the Examiner, marked "Commission's Exhibits Nos. 121 and 122," and the same are in words and figures substantially as follows):

COMMISSION'S EXHIBIT No. 121.

(On Postal telegraph blank.)

"123 prx 3 615p

Kalamazoo Mich Feb 22, 17

Curtis Pub Co

#123

Phila OK FMB

May we handle newsstand sales pictorial review rush twenty five gentlemen wire reply

KALAMAZOO NEWS CO."

Rubber stamp): "Answered
Feb 23 1917
M. E. D."

"R 109 Feb 23 1917"

"Received
Telegram Desk
Sales Division
Charges PD
Feb 23 1917"

(Penciled memo.): "C. C. Hall 308 N. Rose"

---

COMMISSION'S EXHIBIT No. 122.

(On Postal telegraph blank, being a carbon copy from typing.)

"11.30 AM Sales

February 23, 1917

Kalamazoo News Company
308 North Rose Street
Kalamazoo, Michigan

Can't sanction (your) taking wholesale agency Pictorial. This final. Letter follows.

M. E. DOUGLAS."

By MR. DALY:

Q. Will you look at a letter dated March 23, 1917, to Mr. Collins, secretary, Curtis Company, at Philadelphia, with reference to the matter? (Handing letter to the witness.)

A. Yes, sir.

Q. Did you send that?

A. Yes, sir.

MR. MILBURN: No objection.

MR. DALY: We offer this letter.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 123," and the same is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 123.

(On letterhead of):

"KALAMAZOO NEWS CO., INC.

Kalamazoo, Mich., Mar. 23, 1917.

P. S. Collins, Secy.,
Curtis Pub. Co., Philadelphia, Pa.
Dear Sir.

You are aware that the Curtis Publishing Co. has forbidden us as district agents to handle certain publications that are breaking away from the American News Co. The main contention of your sales manager in this is that by securing the wholesaling of more magazines we would take on the character of a news company and so lessen our value to you. I am not writing to carry this matter over Mr. Douglas' head. I simply remember that at the 2,000,000 convention your judgments were fair and considerate and I entertain the hope that perhaps you will see this matter somewhat

from our standpoint and modify some of the decisions that your company has recently sent out.

Many of us have for a long time believed that most of the prominent magazines would break away from the News Company and have hoped thereby to increase our profits. Now when this hope seems about to be realized the Curtis company steps in and says we cannot avail ourselves of the opportunity. Naturally this is galling to us and under some circumstances would not be tolerated for a moment, but we remember that the Curtis company have always dealt honorably and fairly with us. We cannot tell how these strangers will deal nor how long they will stick but we do not think they can hurt the Curtis sales one bit and think it a great hardship that you should forbid us handling them. Especially those who will make no effort to sell through your boy organization.

Considerable stress have been laid on the fact that we are your valued special agents and from this we take it that we are expected to pay some especial attention to the Curtis work. This would still have to be done by us if we continued to carry out the detail work you have laid out for us.

What follows is not in the nature of a complaint. We want the Curtis business just as it is and would be glad to go on with it but the fact remains that it is far from being our greatest source of profit. We are making 16 2/3% on our Posts and Country Gentlemen and 10% on our Journals. In Kalamazoo this amounts at present to about $9.00 per week, out of which must be paid cartage, delivery expense, postage on returns, besides doing overhead and clerical work, and the exactions of the Curtis company are much greater in these last two particulars than that of any other

publications we handle. Then, too, we must remit in advance and deposit $100.00 as a bond, meaning a capital investment of $200.00. We do not feel that a company paying such moderate profits should feel itself in position to dictate to the dealers in such a way as to prevent them from securing more profits when the opportunity offers. It is doubtful if any other merchant would make the above investment for the same percentage of profits but it fits in with our business and we want it, provided we do not have to sacrifice too much for it.

In all frankness and with the greatest friendliness I say that I do not believe you can dam the tide of popular feeling among the agents for more magazines and larger profits. Once lost, these agents, or very few of them, would sign contracts similar to the ones you now have in force, should you at any future time want to take them back. With other merchants your business would be so much of a side line that it is doubtful if they could give you the same service you now enjoy, and with your profits on the same basis as now, few business men, amounting to anything, would put up cash bonds and pay in advance for their copies. A school boy would have to have some central location, which would mean rent or special salaries. If you are going to pay special salaries would it not be better to give them to the present agents while allowing the latter to handle other magazines, and see that they (the present agents) make use of these salaries to hire a worthy and able young man for promotion? Under our experienced direction greater results could thus be obtained than ever before. However, should you simply withdraw your objections to the other magazines, little harm could result to your publica-

tion as long as you maintain the excellent standard you now have. After all, in the final test a newspaper or magazine sells on its merits.

Awaiting your reply with interest, I am

Respectfully yours,

CHARLES C. HALL."

MR. MILBURN: Mr. Daly, Mr. Collins is General Business Manager of the company.

MR. DALY: Is the General Business Manager?

MR. MILBURN: Instead of Secretary.

MR. DALY: Just note that, Mr. Stenographer.

By MR. DALY:

Q. Will you look at that letter, dated March 26, 1917? (Handing paper to the witness.)

A. Yes, sir; that is a copy of the letter I received.

Q. With reference to this same matter?

A. Yes, sir.

MR. DALY: We offer this letter, dated March 26, 1917.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 124," and the same is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 124.

"March 26, 1917.

Mr. Charles C. Hall,
308 N. Rose Street,
Kalamazoo, Michigan.

My dear Mr. Hall:

I am very glad, indeed, to get your letter. I have the most pleasant recollections of the acquaintance formed at the time of the Two Million Convention and am happy to hear from you again.

I should be very sorry should you feel that we are disposed to play 'dog in the manger.' This is not so. There are numerous publications which we should be quite willing for you to handle and if in doing so you could materially increase your income, we should be glad of that fact.

Our position is largely based on a knowledge of some conditions with which you are not, probably, familiar and because we know that the situation as you describe it is largely smoke which looks impressive but underneath which there is very little real fire.

You say that 'many of the prominent magazines' are ready to 'break away from the news company.' Now let me assure you, not because I want to accomplish a result but because I know it to be a fact, that this is not really so. You must remember that a publisher naturally considers his own personal interests as represented on his ledgers and that any independent distribution will not appeal to him unless he can definitely see a greater output and a larger profit than under the present system. There is a lot of difference between the statement or representation of an employee anxious to enlarge his position and the real attitude of the publisher himself, and in meeting the former you do not necessarily get the attitude of the publisher. The former sees nothing but his immediate advancement; the latter is not anxious to install a big organization and to spend a lot of money conducting it unless he can see material benefit and a definitely assumed permanent condition. Just consider the difference in dollars and cents between the price received from the news company and the price paid by the wholesale agent, and you will see that there is a pretty small margin to work on in the development of an independent organization.

Within a few days I talked with the publisher of one of the large women's publications which has been frequently quoted as desiring to enter into an independent distribution. I am going to quote just what he said because it is typical of the attitude of almost all of the other large publishers. He said:

'Our Mr. Blank was keen on the matter of an independent distribution. I couldn't see any objection to his feeling it out and told him to go ahead, of course, knowing in my own mind that I wouldn't touch the thing finally unless I could see not only the start but the finish. While I have not yet said so, I know that we won't touch it.

'Doubtless, in a limited number of large places, we could increase our circulation but to really do it effectively and in a national way, we should have to put in an elaborate promotive and shipping organization, and the saving of the news company profit reflected by what they now pay us and what the individual dealer and the agent would pay us wouldn't commence to cover that expense. Moreover, where we should lose out on circulation would be at places outside of the big cities. I know that the news companies would, if we broke away from them, handle only on a non-returnable basis. They wouldn't try to sell at all to new newsdealers who are starting every day and in every way they would avoid pushing us at all. The result taken as a whole would be a smaller aggregate sale and less profit than now.

'Conditions may not be ideal but the other scheme would be "out of the frying-pan into the fire," and I shall "let well enough alone." It's a beautiful theory but unless a concern has got a tremendous circulation and is warranted in spending, as you have, hundreds of thousands of dollars

in developing it in every little place in the country, it's a dream.

'As for a co-operative publishers' movement, I wouldn't touch it and neither would anybody else who has any sense. Inside of two months they would be fighting like the Kilkenny cats and the result would be the same as it was with the Publishers' Clearing House several years ago when the publishers tried to cut out the subscription agencies and have only one agency under their own control. And you know what a flash in the pan that was!'

I will say frankly to you that THE CURTIS PUBLISHING COMPANY WOULD MAKE MORE money by distributing solely through the news company than we do by our present organization. When we started to sell independently, we did so because THE SATURDAY EVENING POST was almost the only weekly that amounted to anything in the field. We had to educate the public into buying any weekly publication at all. We couldn't do it through the news company and we did it independently because it was the only way that we could see of accomplishing the result. I think it would surprise you to know how much money it cost us to develop the organization and put it on its feet. Any other publisher would have to do the same thing and we feel morally certain, whatever the apparent situation may be at this minute, that inside of a few months you will realize that what I say about there being a lot of smoke but very little fire is the case.

I am handing your letter to Mr. Douglas and asking him to write to you a little more in definite detail. I know that his feeling toward you is very warm.

Sincerely yours,

L''

By Mr. Daly:

Q. Now, did you testify as to how many "Posts" you handle?

A. I handle——

Q. Well, wait a minute. Just strike that out. You were handling the "Pictorial Review"—you quit handling the "Pictorial Review," then, because of those objections, is that correct?

A. Yes, sir.

Q. Were there objections as to "Every Week"?

A. Yes, sir.

Q. How were they made to you?

A. Through Mr. Attix.

Q. Who is he?

A. He was then their roadman. And also by Mr. Reynolds.

Q. How many "Every Weeks" were you handling, or did you take it on?

A. 200 to 250.

Q. And what did you do after those objections were made?

A. Discontinued handling it.

Q. On account of the objections?

A. Yes, sir.

Q. How many copies—did you say that you handled the "Pictorial Review"?

A. Yes, sir; one month's issue—one issue.

Q. How many copies of that were you handling?

A. 300 to 350. Just the number I cannot state.

Q. And you quit handling it?

A. Yes, sir.

Q. On account of the objections?

A. Yes, sir.

Q. Quit distributing it, do you mean?

A. Yes, sir.

Q. Now, your contract calls for a cash security deposit.

A. Yes, sir.

Q. Did you put up that deposit?

A. One hundred dollars. I did.

Q. Are you the agent now of the Curtis Publishing Company?

A. No, sir.

Q. Do you represent the Curtis Company now?

A. No, sir.

Q. Strike out that other one. What other wholesaler was there in your town at the time that you were under this contract—wholesale news dealer, if any?

A. None, except after I threw out the "Pictorial Review" and "Every Week."

Q. Then there was an agency established, was there?

A. To handle "Pictorial Review" and "Every Week."

Q. What do they handle?

A. What is that?

Q. What do they handle, do you know?

A. That is all.

Q. How do you distribute your magazines and papers to the dealers in your town?

A. By automobile, boy with a cart, street car.

Q. And how many of those dealers are there?

A. There are between fifty-five and sixty who handle magazines.

Q. How many are there that handle newspapers and magazines, or newspapers alone?

A. Well, there are just a trifle over sixty, probably sixty-one or two who handle newspapers. Oh, you mean alone? Then there would be probably—oh, five or six.

Q. Then how many retailers in your town of that description, altogether?

A. About sixty-two.

Q. Do you serve all of them?

A. Yes, sir.

Q. Did you at the time that this contract was in force?

A. Yes, sir.

Q. Does the American News Company distribute magazines also?

A. Yes, sir.

Q. To any of those dealers?

A. Yes, sir.

Q. How do they distribute them?

A. Through a delivery service established by the Grand Rapids branch of the American News Company.

Q. And where would those magazines come from, into your city?

A. From Grand Rapids.

Q. Do you know—if you know, will you testify as to how many of those dealers are served by the American News Company exclusively?

A. None.

Q. Do you know how many of them are served at all?

A. About twenty.

Q. By the American News Company. Now, who distributes magazines and newspapers to the remainder of them?

A. I do.

Q. And you did, that was the condition when you were operating under this contract?

A. Yes, sir.

Q. You distribute to all of them, don't you?

A. Yes.

Q. Now, what proportion of your business—of the business—was made up of the Curtis Company's publications, approximately?

A. According to gross profits, about one-fifteenth.

Q. And what made up the other fourteen-fifteenths of your business?

A. Mostly newspapers, but there was a large proportion of magazines.

Q. What do you mean by a large proportion of magazines?

A. Well, according to number of copies handled, about—there were probably 18,000 copies of magazines distributed by men when I was Curtis agent in Kalamazoo. Of that number probably forty per cent. was Curtis business.

Q. Had you a boy organization?

A. Yes, sir.

Q. How was that established?

A. Why, it was already established when I bought the agency—both for the Curtis and the newspapers, of those boys that handled both Curtis and newspapers.

Q. You took over another agency when you began business?

A. I bought out a dealer.

Q. How many boys had you of all descriptions?

A. More than a hundred.

Q. How many of them were boys that handled nothing but the Curtis Company's magazines?

A. It is difficult to say; maybe ten; maybe fifteen.

Q. Would it exceed fifteen, do you think?

A. It would not exceed fifteen.

Q. And what was the remainder of the boys handling, or distributing?

A. The strongest organization was the newspaper organization—handled newspapers almost exclusively, and many of them handled other magazines.

Q. What proportion of the remainder handled other magazines, do you think?

A. Well, probably fifteen boys who sold magazines besides newspapers and Curtis publications—possibly twenty boys.

Q. What did you do towards instructing or edu-

cating or training these boys that you have spoken about that handled nothing except the Curtis magazines?

A. Why, just simply to urge them to push the business. Occasionally told them certain sections or buildings or factories to work, and supplemented the Curtis efforts by explaining various contests that were put on from time to time, and at first picturing the benefits to be obtained by winning in those contests.

Q. Now, how much money, if any, did you actually receive for performing that service?

A. Well, I could not state the total amount.

Q. Well, did you receive any for coaching these boys, training them?

A. Occasionally I would receive a dollar—I have forgot now just why, but for some boy that had sold a certain number of copies or obtained a certain rank in their grades.

Q. Then what you received, you would receive some small sum that you have described when a boy had sold a certain number of copies, is that correct?

A. Yes, sir.

MR. DALY: That is all.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. You said that you were the only wholesaler when you held the Curtis agency; is that true, Mr. Hall?

A. I said except when the—after I threw out the "Every Week."

Q. Yes. When you had that you were the only one there?

A. Yes, sir.

Q. But at the same time the American News Company operated in Kalamazoo?

A. To a small degree; yes.

Q. And then when you discontinued that "Every Week," with "Pictorial," they went out and formed an agency of their own?

A. Yes, sir.

Q. And afterwards, when you discontinued your relationship with the Curtis people, they went out and formed an agency of their own?

A. They did.

Q. So that there were in all, then, three agents operating—wholesale agents, operating?

A. No, because I immediately took on "Pictorial Review" again. There are now——

Q. So there are now the two of you?

A. Yes, sir.

Q. You and the Curtis man?

A. Yes, sir.

Q. The total circulation when you had the Curtis contract, of magazines, you said, was 18,000.

A. Approximate.

Q. About how many, approximately, magazines did that represent?

A. 18,000 a month, that is; that is the total monthly.

Q. Well, but I mean how many different publications?

A. Oh, how many different ones?

Q. Yes.

A. You mean as to groups, or actual magazines?

Q. Well, actual magazines, or groups, any way.

A. Between twenty and twenty-five.

Q. How many of these Curtis boys did you report on, Mr. Hall, per week?

A. I can't remember.

Q. Do you remember approximately?

A. If my memory serves me right, about thirty.

Q. And those were boys who were really engaged primarily in selling Curtis magazines, weren't they?

A. That was their largest business.

Q. You said that in handling these boys, to obtain them to increase their efficiency, that you supplemented the Curtis efforts; what were their efforts?

A. Largely in promoting contests for prizes, and also obtaining lists of boys and mailing them advertising matter, inserting sometimes advertisements in the various local newspapers to bring boys in.

Q. Well, the Curtis agent there—or the Curtis road man there, would go to the schools, wouldn't he, and endeavor to stir up enthusiasm for the boys?

A. I don't remember that that was ever done.

Q. You never did then?

A. I endeavored to obtain school lists several times, but was never successful in obtaining any considerable list.

Q. And when your contract ceased, this list of the boys was turned over to your successor, isn't that true?

A. Yes, sir.

Q. You said you handled 300 "Pictorial" and 250 "Every Week"; do you mean that you actually sold that many?

A. I certainly sold 300 "Pictorials." I had a considerable number of returns on the "Every Week."

Q. There was no trouble about the return of the cash security, was there?

A. I haven't got it yet.

Q. You haven't got it yet? Why was that, because your account is being closed up?

A. I presume so. I just wrote for it the other day.

Q. Well, you will get it.

A. I am not worrying.

Q. You said the American News Company served

by twenty news dealers in Kalamazoo; now, any dealer in Kalamazoo can go to the American News Company for anything he wants, can't he?

A. Yes, sir.

MR. MILBURN: That is all.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. Now, you urged all your boys to increase the sales of the papers and magazines that you distributed, didn't you?

A. Yes, sir.

Q. As well as the Curtis boys?

A. Yes, sir.

Q. Now, in what way did the Curtis Company get boys for you while you were their agent?

A. Their most successful way was placing advertisements in the local newspapers and getting the boys to come into the office, and either their representative or I would endeavor to start them selling "Posts," "Gentlemans" or "Journals," by giving them what is termed "Free Copy Cards." They had other methods.

Q. Did you get any of the Curtis boys yourself in this business you have testified about, through your own efforts?

A. If you mean by that—Yes, I advertised once or twice myself on my own hook.

Q. Did you get boys?

A. Yes, sir.

Q. In response to that advertisement?

A. Yes, sir.

MR. DALY: That is all.

RE-CROSS-EXAMINATION.

By MR. MILBURN:

Q. Did any other publishing house offer premiums for getting boys, or sales by boys, or carry on such methods, but the Curtis Company?

MR. DALY: I do not think that is material.

MR. MILBURN: That has been asked and answered.

MR. DALY: Go ahead.

MR. WELCH: What was the question?

MR. MILBURN: I asked if any other publishing house offered premiums for sales by boys. That was in the record all day yesterday.

MR. DALY: I do not remember it.

THE WITNESS: Only the "Every Week."

MR. MILBURN: That is all.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. "Every Week" offered prizes, too, did they?

A. Yes, sir.

MR. DALY: That is all.

RE-CROSS-EXAMINATION.

By MR. MILBURN:

Q. Mr. Hall, when "Every Week" offered prizes and gave premiums and one thing and another of that character, was that within the last year?

A. Yes, sir. I should have stated, too, that the newspapers, of course, have done that very largely also.

Q. That does not—I didn't mean that. I meant just magazines.

A. Yes, that was done in the last—in 1917.

Q. Last year?

A. Yes.

Q. And they never did it before 1917?

A. No.

MR. MILBURN: That is all.

(Witness excused.)

MAX SOLOMON, called as a witness on behalf of the Commission, having been first duly sworn by the Examiner, was examined and testified as follows:

DIRECT EXAMINATION.

By MR. SPIESS:

Q. Your full name?

A. Max Solomon.

Q. Where do you do business?

A. 69 West Larned, Detroit.

Q. Detroit?

A. Yes, sir.

Q. What business are you in?

A. Wholesale distributors of newspapers and magazines.

Q. How long have you been wholesaling newspapers?

A. Seven years and six months.

Q. In Detroit?

A. Yes, sir.

Q. Did you ever wholesale them anywhere else?

A. No, sir.

Q. How long have you been under contract with the Curtis Company?

A. It will be eight years this coming July.

Q. Then you were under contract with the Curtis Company before you handled newspapers?

A. We took hold of the Curtis Publishing Company's publications first.

Q. Where were you located before you came to Detroit?

A. Born and raised in Detroit.

Q. Born and raised there. Now, since you have been under contract with the Curtis Company, what other magazines have you handled?

MR. MILBURN: May I ask for that question? I did not hear it.

MR. SPIESS: What other magazines has he taken on since?

MR. MILBURN: Since. Oh, yes; that is all right.

THE WITNESS: "Collier's," Munsey's publications, Hearst's publications, Warner publications, "Pictorial Review," "Etude." That is all.

By MR. SPIESS:

Q. How about the Publishers' News Company publications?

A. That was the "Everybody's," "Adventure," "Delineator," "Woman's" and "Designer."

Q. Did you take those on?

A. Yes, sir.

Q. Are you wholesaling those now?

A. No, sir.

Q. Why?

A. They went back to the American News Company. They do not deal with the Independents any more.

Q. Did you continue to handle them up to the time they went back to the American News Company?

A. Yes, sir.

Q. Now, are you handling the "Literary Digest"?

A. Yes, sir.

Q. Did you get permission from the Curtis Company?

A. Yes, sir.

Q. Did you get verbal permission or written permission?

A. Verbal permission.

Q. You stated that you handled the "Pictorial Review"?

A. Yes, sir.

Q. When did you begin handling "Pictorial"?

A. March, 1917.

Q. Are you handling it now?

A. No, sir.

Q. When did you give it up?

A. With the May issue of 1917.

Q. Did you give it up?

A. The Curtis Publishing Company did not allow —did not give us their sanction to handle it any more.

Q. They objected to your handling it?

A. Yes.

Q. Well, now, hadn't you already ordered the May issue?

A. No, sir.

Q. I now show you a letter dated March 10, 1917, to the "Pictorial Review," signed Solomon News Company, and ask you if you sent that letter to Mr. Mackinnon of the "Pictorial Review"?

A. Yes, sir.

MR. SPIESS: I offer this letter.

MR. MILBURN: Yes.

EXAMINER MOORE: The letter is admitted without objection.

(Whereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 125," and the same is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 125.

(On letterhead of):

"SOLOMON NEWS CO.
Detroit, Mich. March 10, 1917.

Pictorial Review
Mr. B. A. Mackinnon
Circulation Dept.
New York City.
Dear Sir:

We regret very much to advise you that we will be unable to handle the May issue, Pictorial Review, due to the steps taken by The Curtis Publishing Co.; however, will aid your new representa-

tive with any information desired. Thanking you for giving us the opportunity to represent you in our city and trust that your new representative will work up a sale here as big as we anticipated to do ourselves,

Yours truly,
SOLOMON NEWS CO."

By MR. SPIESS:

Q. I now show you a letter dated March 16, 1917, to the "Pictorial Review," and signed Solomon News Company, and ask if you sent that letter to Mr. Mackinnon of the "Pictorial Review."

A. Yes, sir.

MR. SPIESS: I offer that.

MR. MILBURN: Well, I object to this letter. I do not see that it has got anything to do with The Curtis Publishing Company, or with this controversy, or anything else. It is a business letter between Mr. Mackinnon and the Solomon News Company, and has nothing to do with it.

MR. SPIESS: Mr. Examiner——

MR. DALY: Hand the Examiner the letter and let him look at it.

(The letter in question was handed to the Examiner.)

MR. WELCH: It concerns the pattern business, too.

MR. MILBURN: Pattern agencies, or some such thing as that.

EXAMINER MOORE: I guess we will let it go in.

MR. MILBURN: Can I have an exception?

EXAMINER MOORE: Exception noted.

(Whereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 126," and the same is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 126.

(On letterhead of):

"SOLOMON NEWS CO.
Detroit, Mich. March 16, 1917.

Pictorial Review
Mr. B. A. Mackinnon
Circulation Director
New York City.

Dear Sir:

Your telegram of the 15th came to hand today. In reply to same beg to state that our dealers swamped us with their orders, refusing some and cutting others, which cleaned us out of our drawings; however, we managed to cover some of your most important pattern agencies and by doing this we created sore spots amongst our dealers by not giving their full quota number. Sorry that we did not order at least 5,000 copies which no doubt would cover everybody's wants and would not have caused any bitter feeling amongst your pattern agencies and our dealers. We tried to work both ends to the middle and trust that you will forgive us for any trouble that you were put to. We remain,

Very truly yours,
SOLOMON NEWS CO."

By MR. SPIESS:

Q. I now show you a letter dated February 22, 1917, addressed to the "Pictorial Review," and signed Solomon News Company, and ask if you did not send that to Mr. Mackinnon of the "Pictorial Review"? (Handing paper to the witness.)

A. Yes, sir.

MR. SPIESS: I offer that letter.

MR. MILBURN: I make the same objection to this letter, that it has nothing to do, no connection,

with the issues involved here, and is incompetent, irrelevant and immaterial.

MR. DALY: That letter goes to the same point, that there were orders given for the "Pictorial Review," and checks sent. It goes to the same point that the former letter bore upon, the extent of the business that this man could carry on in this community with the Pictorial Review Company, in the distribution of their magazines.

EXAMINER MOORE: The letter will be admitted in evidence.

MR. MILBURN: What is that?

EXAMINER MOORE: The letter will be admitted in evidence.

MR. MILBURN: May I have an exception?

EXAMINER MOORE: Exception noted.

(Whereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 127," and the same is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 127.

(On letterhead of):

"SOLOMON NEWS CO.

Detroit, Mich., Feb. 22, 1917.

The Pictorial Review,
Mr. Mackinnon,
Circulation Director,
New York City.

Dear Sir:

Your letter of the 20th and Mr. Crawford's of the 19th received.

For the April issue we placed our order for 3,000 copies but did not accompany it with our check; therefore, as per Mr. Howard's request, we are enclosing check, $292.50, herewith to pay for our order of the April issue; mailed check to

our brother at Cleveland and will inform him to forward on check to pay for our order 2,000 March issue.

Hope that the Detroit News Co. will not complain to you regarding our sale of the March issue.

We do not cover any towns outside of Detroit.

Yours truly,

SOLOMON NEWS CO."

(In blue pencil): "E H C"

(In red pencil): "(9)"

(Endorsed on the back): (Stamp): "0196 Feb. 26 '17"

By MR. SPIESS:

Q. I now show you a letter dated February 16, 1917, addressed to the Pictorial Review Company, and signed Solomon News Company, and ask you if you did not send that to the "Pictorial Review." (Handing letter to the witness.)

A. Yes, sir.

EXAMINER MOORE: Is it the same kind of a letter?

MR. DALY: Not exactly; partly.

MR. MILBURN: Same objection. It is just the same type of letter.

MR. DALY: That letter goes to two points, if your Honor please. One, to the point of distribution; second, to the point that there is a demand in this community, where this man operates, for these particular magazines, that were excluded from his agency on account of this contract.

EXAMINER MOORE: I think it is admissible. I will let it go in.

MR. MILBURN: An exception, please.

EXAMINER MOORE: Exception noted.

(Whereupon the said letter was received in

evidence by the Examiner, marked "Commission's Exhibit No. 128," and the same is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 128.

(On letterhead of):

"SOLOMON NEWS CO.

Detroit, Mich., Feb. 16, 1917.

The Pictorial Review.
Mr. E. H. Crawford,
216 W. 39th St.,
New York City.
Dear Sir:

We beg to acknowledge receipt of the 2,000 copies March Pictorial Review.

We called upon our dealers as to their supply and majority of them claimed that they never receive their full order from the Detroit News Co.; therefore leaving a few copies wherever we hear of these complaints. Unfortunately, the Detroit News Co. did not receive their supply for sale day and by us circulating to some dealers who complained made other dealers wonder why they had not received theirs, and gave them the impression that we were making a distribution of Pictorial Review. This made the dealers feel glad that we had added another magazine to our list and received remarks such as more power to you. A number of dealers wanted to place their orders with us for the April issue, persuading some to accept their orders from the News Co. and if their supply ran short, they would call on us, but some insisted upon us to accept their standing order starting with the April issue but will get all their orders for the May issue.

Trusting that we did right under the conditions which should not cause any trouble, as we

were unaware at the time our delivery men started on their routes. We disposed of the 2,000 copies and you can ship us 3,000 ~~more~~ April as we did not work on standing orders but for the May issue you can look forward for an order of at least 6,000.

Yours truly,

SOLOMON NEWS Co."

(Endorsed in red pencil opposite first paragraph): "OK EHC"

(Endorsed in red pencil opposite last paragraph): "3000 got notice EHC"

By MR. SPIESS:

Q. I now show you a letter dated February 5, 1917, signed M. E. Douglas, of the Curtis Publishing Company, and ask you if you received that letter? (Handing paper to witness.)

A. Yes, sir.

Q. Will you read the first paragraph of that letter, please?

(The witness does so.)

Q. In the first paragraph of that letter, reference is made to "another publisher and his agent"—whom did you understand that to mean?

A. Why, any publisher that would cater to boys.

MR. MILBURN: Can I look at the letter a second?

(Letter examined by Mr. Milburn.)

By MR. SPIESS:

Q. Did you have any particular publisher in mind?

A. No, sir.

Q. When this letter was received?

A. No, sir.

Q. Well, I may say for your information, Mr. Solomon, that it has been stipulated that the Curtis Publishing Company sent out form letters advising their agents against the handling of the "Pictorial Re-

view," and calling their attention to Clause 13 of their contract.

A. Yes, sir.

Q. I now ask you whether or not that refreshes your mind as to whom Mr. Douglas was referring when he said "another publisher and his agent."

A. Well, we were allowed to sell to the dealers, but not to cater to any boys.

Q. I know, but he is referring to a publisher who is about to ask the distributors, wholesale distributors, to handle another magazine.

MR. MILBURN: Mr. Spiess, a moment. Isn't that a question for Mr. Douglas? You can ask him that, to whom he referred.

MR. SPIESS: Well, it is all right.

MR. MILBURN: Mr. Solomon does not know to whom Mr. Douglas referred.

MR. SPIESS: Mr. Solomon probably knows.

MR. MILBURN: Well, he does not seem to. He says he does not remember the letter; it does not refresh his mind.

MR. SPIESS: Well, I offer the letter.

MR. MILBURN: That is all right.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon the letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 129," and the same is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 129.

(On letterhead of):

"THE CURTIS PUBLISHING COMPANY
Philadelphia

Feb. 5, 1917.

Solomon News Company,
Detroit, Michigan.

Gentlemen:

The plans of another publisher and his agent (news company) lead us to remind you of Clause

13 of your Curtis contract. The purpose and effect of that clause are as follows:

> *With respect to periodicals not previously wholesaled by you, you definitely agreed to refrain from wholesaling to boys or dealers any periodicals not our own without first obtaining our approval.*

Of course you will be very careful to make with the other publisher or his agent (news company) no arrangement contrary to your Curtis contract.

In justice to you and to avoid any situation which would be embarrassing to both you and us, we feel in duty bound to say that your arrangements with us may be continued only upon the basis stated.

Our relations have been so very pleasant that we hope to be able to supply and serve you indefinitely hereafter.

This is a general letter to all of our District Agents. Please attach it to your Curtis contract for future reference.

Very truly yours,

THE CURTIS PUBLISHING COMPANY.

M. E. Douglas,

*Manager Sales Division.*

MED''

By MR. SPIESS:

Q. I now show you a letter dated February 17, 1917, signed J. F. Donnelly, district manager, Curtis Publishing Company, and dictated by M. E. Douglas, and ask you if you remember receiving that letter? (Handing letter to the witness.)

A. Yes, sir; I remember that.

MR. MILBURN: No objection.

MR. SPIESS: I offer this.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 130," and the same is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 130.

(On letterhead of):

"THE CURTIS PUBLISHING COMPANY
Philadelphia

February 17, 1917.

Solomon News Company,
69 West Larned Street,
Detroit, Michigan.

Gentlemen:

Your kind letter dated February 15 is valued greatly. We needed no re-assurance of your loyalty to us; but if we had needed it, your stated action with respect to EVERY WEEK would have given it. Thank you very much.

As far as COLLIER'S WEEKLY is concerned: On the basis that you will limit your distribution of that publication to dealers only, we have no present objections to your continuing with it. That is, on the basis stated you have our sanction according to Clause 13 of your agreement with us.

With reference to THE PICTORIAL REVIEW:

We think our mutual interests, yours and ours in common, will be best served by your not making any arrangement to wholesale that periodical.

One fundamental fact stands out prominently:

There is a limit to the number of periodicals seeking circulation among readers of the same class, which a District Agent can handle without

taking on the limitations of a branch of the News Company. We have District Agents because we need representatives free from such limitations. You are our valued representative because you have heretofore been free from such limitations.

That you may get our exact shade of meaning with respect to THE PICTORIAL REVIEW, let me quote from a letter recently mailed to a Curtis District Agent in another state, of whose loyalty to us we were not wholly confident as we are of your loyalty. In that letter to the other District Agent we said:

> 'If you were to undertake it, directly or indirectly, we should wish to cancel your arrangements with us.'

There is nothing temporary or uncertain about our policy of continued direct supplies to District Agents including you in accordance with our contracts, and we believe our mutual interests, yours and ours alike, will be best served by the maintenance of methods and policies above mentioned.

At your convenience in the course of a few days we shall be very glad to have you tell us in connection with the PICTORIAL matter, what your preference is with respect to the continuance of the very pleasant relations which have so long existed between us.

We are delighted with the efforts you have been putting forth with our publications and are especially interested in your showing with THE COUNTRY GENTLEMAN, for we are willing and anxious to pay handsome bonuses for COUNTRY GENTLEMAN increases at this time.

Our Mr. A. J. Holl will probably be in your city very shortly. I am sure you will be glad to

have the opportunity to talk over with him various phases of matters herein referred to.

Very truly yours,

THE CURTIS PUBLISHING COMPANY,

J. F. Donnelly,

B

*District Manager.*

Dictated by
M E Douglas
MED BHL"

By MR. SPIESS:

Q. I now show you a letter dated March 8, 1917, signed J. F. Donnelly, district manager, Curtis Publishing Company, and dictated by M. E. Douglas, and ask you if you received that letter? (Handing letter to the witness.)

A. Yes, sir.

MR. MILBURN: No objection.

MR. SPIESS: I offer that in evidence.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 131," and the same is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 131.

(On letterhead of):

"THE CURTIS PUBLISHING COMPANY
Philadelphia

March 8, 1917.

Mr. M. Solomon,
Solomon News Company,
69 West Larned Street,
Detroit, Michigan.

Dear Mr. Solomon:

For reasons stated in our letter dated Febru-

ary 17, we cannot very well approve your wholesaling the May number of The Pictorial Review.

As far as Cleveland is affected, the same question was fully discussed with your brother Henry when he visited us last week and it was agreed that Cleveland would be handled as stated.

You can easily arrange to meet the Detroit situation in the same way. This will work out best all around, I am sure, and will be mutually satisfactory.

Very truly yours,

THE CURTIS PUBLISHING COMPANY.

J. F. Donnelly,

*District Manager.*

Dictated by
MED SM
M E Douglas"

By MR. SPIESS:

Q. Did you ever handle "Every Week"?

A. No, sir.

Q. Were you ever approached to handle it?

A. No, sir.

Q. How many boys have you?

A. Well, about two hundred.

Q. Well, now, of that number how many of them are boys that handle only the Curtis publications?

A. One hundred.

Q. And of that one hundred, they do not handle any newspapers, either?

A. No, sir.

MR. WELCH: What was that question?

(The record was read.)

By MR. SPIESS:

Q. Of those one hundred, how many of those boys ever became master salesmen?

A. We have about six boys that have become master salesmen.

Q. Six, or four?

A. Six. About six of them.

Q. What period did that cover?

A. Sir?

Q. What period does that six cover?

A. That is our out-lying boys; that is the ones that sell in the residential district.

Q. Yes, but I mean over what period of years were those six?

A. Well, they have just became master salesmen here recently.

Q. Did you have any master salesmen before those six?

A. No, sir.

Q. What is the longest time of any boy, any so-called Curtis boy, that you have?

A. We have one boy still on our books since the day we took hold of the agency.

Q. That is approximately eight years?

A. Yes, sir.

Q. Did he become a master salesman?

A. No, sir.

Q. Do you know why?

A. Why, I could not say; no.

Q. Did you ever get any money for coaching these boys?

A. Yes, sir.

Q. Well, now just state how you got money for coaching them, Mr. Solomon.

A. Why, when a boy becomes a master salesman we receive—I would say, offhand, $15.50, when a boy becomes so as to be a master salesman.

Q. He gets fifteen dollars?

A. How?

Q. He gets fifteen dollars?

A. I do.

Q. You do?

A. Yes.

Q. Do you coach him to be a master salesman?

A. I help along; yes, sir.

Q. Now, before he becomes a master salesman, what must he do?

A. Why, he starts selling Curtis publications. When he attains a certain amount of sale on the three different publications, he becomes a master salesman.

Q. Well, isn't it a fact that you get paid that $15.50 when he has sold so many publications?

A. Yes, sir.

Q. Did you get any other money from the Curtis Company for coaching?

A. Why, not through any other—no, not that I know of, only a dollar a boy—we pick up a new boy, and when this here boy sells forty copies we get a dollar.

Q. Yes. Well, how many times have you received a dollar?

A. I could not say how many times; quite a number of times.

Q. You have a hundred boys; did you ever receive a hundred dollars?

A. No, sir; not that many.

Q. Fifty?

A. That is what we call "new boys"; we get a dollar for a new boy.

Q. Well, these boys were new boys at that time?

A. They come and go in the service.

Q. I see, but all these boys that you have now, they were new at one time?

A. Yes, sir.

Q. How many boys do you have now that you got a dollar for?

A. Well, perhaps forty.

Q. About forty?

A. Yes, sir.

Q. Well, did you coach all the hundred of them?

A. Well, some boys, the regular boys, I would entice them to bring down new boys.

Q. Yes, but of the hundred you have, haven't you coached all of them?

A. Yes, sir.

Q. Were you paid for coaching the other sixty?

A. That comes in line with the Curtis agency work.

Q. Well, is this, or is this not, a fact, that you do not get any money until the boy sells so many publications?

A. Well, we draw our commission just the same.

Q. Commissions for what?

A. Selling Curtis publications.

Q. Well, I know, but aside from that; you get that, anyhow, wouldn't you?

A. Well, we can get a boy to come to be a master salesman—it is so much more profit for us.

Q. Because of the increased number of publications you sell?

A. Yes, sir.

Q. That is it. Have you ever visited any of the boys' homes?

A. Yes, sir.

Q. How many times have you visited boys' homes?

A. Oh, certain boys I have called on. Not all of them, but certain boys.

Q. How many families of these boys have you called on?

A. Oh, perhaps twenty-five or so.

Q. Can you give me the names and addresses of some of them?

A. Yes, sir.

Q. Just give them to the stenographer, please.

A. Harold Bussey.

Q. Just right out loud.

A. Well, I do not know just the addresses right off. I know the boys by name, but I could not say just the addresses.

Q. Don't you give the address to the Curtis Company?

A. Yes, sir; have them on a card at the office.

Q. Well, you can send those in to us, can't you?

A. The cards?

Q. The addresses of these boys that you don't know now.

A. Yes, sir; I could do that.

Q. Whose homes you visited, and the approximate dates that you visited their homes.

A. Yes, I could do that.

Q. You can just give the names there.

MR. MILBURN: How many of these are you going to cover, Mr. Spiess?

MR. SPIESS: The last two years will be all right.

THE WITNESS: That will be all right.

By MR. SPIESS:

Q. Now, did you ever visit any of the schools and obtain boys?

A. No, sir.

MR. MILBURN: Excuse me,—what did you put on the record there, Mr. Solomon? Did you give all the names, or just——

THE WITNESS: Well, no; I will send in the list of the names and addresses.

Q. I thought you had given the names. Don't you know the names now of these boys?

A. Well, I can give the names.

Q. Well, give the stenographer the names, and then you can furnish the addresses later.

A. There is Harold Bussey, Sam Toepel; there is Parker Munger, Chester Carpenter, Robert Fake, Ed-

ward Ehrlked, Lawrence Michaelson, Roland Kunce, Edward LaTulip.

Q. Now, when you visited the homes of these boys, what did you do in the way of coaching them?

A. Cite what business principles there was in selling Curtis publications, to go around their neighborhood, and so on.

Q. Did you tell the boys that at their homes, or did you tell the boys' parents?

A. The boys' parents and the boys.

Q. Now, did you ever coach your boys that sell newspapers?

A. No, sir; not with newspapers, but when we took hold, to entice the boys to sell the Curtis publications.

Q. To do what?

A. To sell the Curtis publications. That was when we took hold of the Curtis publications we enticed the newsboys to sell "The Saturday Evening Post."

Q. Well, how many newsboys did you get to sell "The Saturday Evening Post?"

A. About a hundred.

Q. And those hundred that you have spoken of now as so-called Curtis boys, do they sell newspapers?

A. Those we do not call Curtis boys; they are regular newsboys.

Q. Yes, but I mean, do any of those Curtis boys sell newspapers?

A. Well, that I don't know.

Q. I don't quite understand what you mean.

A. What I call Curtis boys live in the residential districts. They are not newsboys.

Q. Don't they sell anything else besides Curtis?

A. That I don't know; they don't handle anything else from us except Curtis publications.

Q. And how many are they?

A. One hundred.

Q. Now, what do you mean by coaching these hundred boys, what do you do to coach these boys?

A. Show them when they grow up to go out and approach people.

Q. To do what?

A. To take their magazines and approach a person and cite the different stories that is in the magazine.

Q. What else?

A. That is all there would be to that.

Q. You are under bond with the Curtis company?

A. Yes, sir.

Q. What is the amount of your bond?

A. One thousand dollars.

Q. You say you have been under contract with the Curtis company nearly eight years. Did you put a thousand dollars up when you first made a contract with the Curtis company?

A. No, sir.

Q. Well, now, how much did you put up in the first contract with them?

A. Five hundred.

Q. And when was it increased, the first increase?

A. That last contract I turned over to you shows the increase.

EXAMINER MOORE: Was it a bond or cash?

THE WITNESS: Cash.

MR. DALY: It is under the cash security provision.

By MR. SPERRY:

Q. August 7, 1915?

A. Yes, sir; whatever the date is there.

Q. Is this the contract that you work under now, Form JDA-2?

A. Yes, sir.

Q. Dated August, 1915?

A. Yes, sir; I think that is the last one. Yes, sir.

MR. DALY: (Addressing opposing counsel) And this is the contract in question in this case?

MR. MILBURN: There isn't any question about that.

By MR. SPIESS:

Q. Are you the only wholesaler in Detroit?

A. No, sir.

Q. Well, what other wholesalers are here?

A. There is the City News Company and the Lent News Co.

Q. The what?

A. Lent News Co.; the Thomas News Co.

Q. And what do they wholesale?

A. Lent wholesale the "Pictorial Review."

Q. What does the other wholesale?

A. "Every Week."

Q. Have they any equipment?

A. Automobiles, each one.

Q. Each one has automobiles. What equipment have you?

A. Automobiles.

Q. How many?

A. We have one of our own, a horse and wagon, and hire the rest.

Q. Now, aside from the wholesaler handling "Every Week," and the wholesaler handling "Pictorial Review," are there any other wholesalers here besides you?

A. No, sir.

Q. Now, before they were in the business of wholesaling "Every Week" and "Pictorial Review," were you the only wholesaler here?

A. Well, there was the Wolverine News Co. They handled the Munsey publications.

Q. How long ago was that?

A. That was about—they held the Munsey publica-

tions until they went back to the American News Co. I could not say.

Q. How long ago has it been since the Wolverine News Co. was in business?

A. Oh, they have been in business for about fifteen years.

Q. Well, then for eight years were or were you not the only wholesaler here in the city of Detroit?

A. For eight years; yes, sir.

Q. And you were at the time you were handling "The Pictorial Review"?

A. I did not catch the last.

Q. And you were at the time you were handling the "Pictorial Review," the only wholesaler in Detroit?

A. No, sir; there is the City News Co.; they handle the "Every Week."

Q. Well, aside from that, then?

A. Yes, sir.

Q. Now, what is the City News Co.?

A. They control an outdoor newsstand, and make deliveries of the "Every Week" throughout the city.

Q. Well, as a matter of fact, is the City News Co. a wholesaler or a retailer?

A. They are wholesale, and run an outdoor newsstand.

Q. But aside from the "Every Week," now, they are retailers, are they not?

A. Retailers; yes, sir.

Q. Now, how many retail dealers are there in Detroit?

A. Approximately five hundred.

Q. Do you have accounts with all of them?

A. Yes, sir. —Well, with the exception of one that I know of.

Q. Does the American News Co. have a branch here?

A. Yes, sir.

Q. What is the name of that?

A. Detroit News Company.

Q. Do you know of your own knowledge whether they have accounts with all of the news dealers?

A. Yes, sir.

Q. You know that of your own knowledge?

A. Yes, sir.

Q. You know that they do have it?

A. Yes, sir.

Q. How often do you get around among the retail dealers?

A. Well, I don't go around. I am on the inside all the time.

Q. Well, who does, in your firm?

A. Well, the delivery men.

Q. Who?

A. The delivery men.

Q. Who does the collecting?

A. We collect as we go along, and in the downtown district it is a charged account.

Q. Well, you don't come in contact with any of them—of the retailers?

A. Of our dealers?

Q. Of your retailers.

A. Well, yes—that come down to the office.

Q. That is the only way you see them?

A. That is the only way I see them personally.

MR. DALY: You have them seen by your force, —by your men, don't you?

THE WITNESS: Yes, sir.

MR. SPIESS: That is all.

CROSS-EXAMINATION.

BY MR. MILBURN:

Q. Mr. Solomon, you spoke of receiving $15.50 when a boy became a Master Salesman.

A. Yes, sir.

Q. That money was paid when he received his appointment as a master salesman in the League?

A. Yes, sir.

Q. Is that not true?

A. Yes, sir.

Q. And irrespective of how many copies he sold, if he was not appointed as a master salesman you would not get the $15.50?

A. No, sir.

Q. And his appointment as master salesman depends not only on copies sold but on his standing in school, and other requirements, does it not?

A. Yes, sir.

Q. And you say that you have six of your boys that have won this position?

A. Yes, sir.

Q. And so you have received $15.50 for each and every one of them?

A. Yes, sir.

Q. In addition to other sums for obtaining new boys?

A. Yes, sir.

Q. Now, in the management of this Curtis League, with which you are familiar, I believe,—

A. Yes, sir.

Q. —have prizes been offered by the Curtis Company.

A. Yes, sir.

Q. And have you been successful at any time in winning any of those prizes?

A. Yes, sir.

Q. To what extent or amount?

A. I won a capital prize.

Q. How much was that?

A. Five hundred dollars.

Q. And have you won other prizes?

A. That I don't remember. I could not say offhanded.

Q. Have there been special drives for raising circulation here as a result of those prizes—prize offerings?

A. Why, it would be up to me to make a drive for more circulation, or to come up in the lead amongst Curtis agents.

Q. When they are making the drive you will exercise special efforts?

A. Yes, sir.

Q. On behalf of the Curtis publications, will you not?

A. Yes, sir.

Q. In addition to these prizes and premiums, if you maintain a certain quota rate for the three Curtis publications, you receive a salary over and above your commissions, do you not?

A. Yes, sir?

Q. And that is by a special agreement with the Curtis Company?

A. Yes, sir.

Q. Can you state the terms of that agreement now?

A. It is eight-fifty on a net scale of 10,000 "Posts," and 25 cents additional on every hundred. With "The Country Gentleman" we have to sell 1,000, and 25 cents additional on every 100. With "The Ladies Home Journal," 4200 and 25 cents extra on every additional hundred.

Q. And you have received that quota regularly?

A. Yes, sir.

Q. Have you not?

A. Yes, sir.

Q. And have received a regular sum of money per month?

A. Yes, sir.

Q. From the Curtis Company, based on that arrangement?

A. Yes, sir.

Q. Could you give me the last—say, for the last year, of about what that average sum was per month?

A. It would run about twenty—from ninety to a hundred dollars a month.

Q. And at times—What was the other news company you mentioned?

MR. WELCH: The Wolverine.

By MR. MILBURN:

Q. The Wolverine News Company?

A. They wholesale the Munsey publications.

Q. Yes, and they wholesaled them during the time you had this agency?

MR. SPIESS: Wait a minute.

MR. DALY: What was that question?

(The record was read.)

MR. DALY: He said they went out of business fifteen years ago.

THE WITNESS: They were in business fifteen years ago.

MR. MILBURN: He said they were in business.

MR. DALY: I misunderstood you. I asked you when did they go out of business, and I understood you to say "Fifteen years ago."

MR. MILBURN: Let him read the record.

By MR. MILBURN:

Q. Is that company in business now?

A. Yes, sir.

Q. Do you know how long it has been in business?

A. Fifteen years.

Q. And during that time it has been wholesaling different commodities, such as stationery?

A. Yes, sir; novelties and stationery.

Q. And has at times wholesaled magazines?

A. While we were in business, or during the time the Munsey publications--let's see, before they broke away from the Independents, the Wolverine held—had the Munsey publications.

MR. DALY: What does he mean by that?

THE WITNESS: The Frank A. Munsey Co. used to cater to independents, and then they severed their connections with the independents and went back to the American News Co. exclusively.

MR. DALY: When was that?

THE WITNESS: That was about four years or so ago.

By MR. MILBURN:

Q. So that when the Munsey Company started an independent circulation, they found the Wolverine Company ready and willing to take it on?

A. Yes, sir; the Wolverine had it first.

Q. Is the Detroit News Company the local branch of the American News Company?

A. Yes, sir.

Q. And it has been in business here right along?

A. Yes, sir.

MR. MILBURN: That is all.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. One question I want to ask this witness: He testified that the Detroit News Company delivered to all of these dealers—these 200 dealers.

MR. SPIESS: Five hundred.

THE WITNESS: Five hundred.

By MR. DALY:

Q. Five hundred dealers. Now, do you know that?

A. I don't know them personally; no, sir.

Q. Do you know that that is a fact personally from these men?

A. Sir?

Q. Do you know that that is a fact, that they deliver to all of them?

A. No; there is dealers come down to the Detroit News Company, as well as come down to our place, but they will do business with about five hundred dealers.

Q. You know that?

A. Yes, sir.

Q. Of these same dealers that you have been talking about?

A. Yes, sir.

EXAMINER MOORE: Is that all?

MR. DALY: No.

By MR. DALY:

Q. Do you know anything about whether the Detroit newspapers have made it a practice to offer prizes?

A. Detroit newspapers?

Q. Yes.

A. No, sir; I don't handle them.

Q. You don't handle them?

A. No Detroit papers.

By MR. SPIESS:

Q. Mr. Solomon, have you taken over any of the business of the Wolverine News Company?

A. Partly what we have today the Wolverine used to handle.

Q. You have today what the Wolverine Company used to handle?

A. Yes, sir.

Q. When did you take over the Wolverine News Company?

A. We did not take over the Wolverine News Company?

Q. Well, the business that they were handling.

A. We got that gradually; started with the Curtis Publishing Company's publications first.

Q. You took that over first?

A. Yes, sir.

Q. And then the Wolverine News Company was handling Curtis Publishing Company's business before you?

A. Yes, sir. The company had their own agent here,—that is, a man from their own home office.

Q. What company?

A. The Curtis Publishing Company had their own representative here.

Q. Well, then, how did you start in to take the Wolverine business by getting the Curtis Company's publications?

A. Well, it was a very short time that the Curtis representative was here. We heard about that and wrote to the Curtis Publishing Company for the agency.

Q. Who was the agent then?

A. The Wolverine News Company had it just about—say, three weeks, before we took hold of it.

Q. And then you took hold of it?

A. Yes, sir.

Q. And what arrangement did you make with the Wolverine News Company?

A. No arrangement whatsoever.

Q. So the Curtis company took it away from the Wolverine and gave it to you?

A. Well, the Curtis had their own representative here for a while; that is, a week or two weeks, I could not say just how many weeks, and then we took hold of it.

Q. What business were you in then?

A. Worked at the "Evening News."

Q. What did you do there?

A. I was in the office, in the Circulation Department.

Q. Doing what?

A. Circulation work.

Q. That is, you were getting out among the retailers, were you not?

A. No, I had—well, the boys in the down town district, and accounts.

Q. So you were very familiar with the boys?

A. Yes, sir.

Q. You handle them a great deal in this business?

A. Yes, sir.

Q. So that when you went to the Curtis Company you took over a lot of these boys with you?

A. Yes, sir; that was our play then, to get the boys.

Q. So you got most of these boys, then, didn't you, instead of the Curtis Company?

A. Well, that is not the kind of boys that I call our kind of boys, or the Curtis call.

Q. Just answer the question.

MR. MILBURN: Well, he has. I object to that remark.

MR. SPIESS: No, he has not.

THE WITNESS: Yes, that is two different kinds of boys.

MR. SPIESS: I move to strike out that. I will ask the question again. Just repeat my question.

(The question was read.)

THE WITNESS: Well, these boys that we got—

MR. SPIESS: Just answer the question.

MR. MILBURN: Read the answer to the question and see whether it should be stricken out.

(The record was read.)

MR. SPIESS: The answer is not responsive, and I ask to have it stricken out. I ask the witness to answer yes or no.

MR. WELCH: He has explained why he cannot answer.

MR. DALY: He has not said he can not answer.

EXAMINER MOORE: Can you answer yes or no? Then you may explain it if you want to.

THE WITNESS: Well, we got those boys——

EXAMINER MOORE: Say yes or no, though.

MR. SPIESS: Yes or no.

THE WITNESS: No.

MR. MILBURN: Is that prior answer stricken out then?

EXAMINER MOORE: I think the prior answer will be stricken out, but let him answer.

MR. MILBURN: Give me an exception.

MR. DALY: What was the question?

EXAMINER MOORE: Did you object to the answer, or to the question.

MR. MILBURN: I object to the answer being stricken out. I think it is responsive. He is trying to explain. It is perfectly clear what he means, if you get down to it, that these were not the Curtis boys. But Mr. Spiess is trying to complicate the matter by trying to raise a doubt. There is not any doubt about it.

MR. SPIESS: On the other hand,——

MR. MILBURN: If you will ask him to explain the matter properly I will withdraw my objection.

MR. SPIESS: You can cross-examine. On the other hand, I am trying to get this witness to state whether or not at the time he took hold of the Curtis publications he did use these boys that he had become very close with when he was on this newspaper.

MR. MILBURN: For Curtis work, do you mean?

MR. SPIESS: That was all he was doing then.

MR. MILBURN: Moved them along to it.

MR. SPIESS: That was all he was doing then. He has testified to that.

MR. DALY: On this Curtis work.

By Mr. Spiess:

Q. Now, I am asking you.

A. Yes, sir.

Q. Is that the situation?

A. Yes, sir.

Q. That is all I wanted to know. Now, you say that you did not handle any Detroit newspapers; don't you know that the newspapers do offer prizes to boys who circulate them, and they offer other prizes through these newspapers?

A. Not that I know of.

Q. At the time you won this capital prize of five hundred, what was the circulation of "The Saturday Evening Post" through you?

A. About 17,000.

Q. What is the circulation of "The Saturday Evening Post"?

A. Seventeen thousand five hundred.

Q. How long ago has it been since you won that prize?

A. That was last Spring, or—I guess it was last Spring.

Q. What do you mean by last Spring?

A. Last April.

Mr. Spiess: Last April.

Mr. Daly: 1917.

Mr. Spiess: That is all.

Re-Cross-Examination.

By Mr. Milburn:

Q. Mr. Solomon, you started to explain the difference between these boys with whom you were associated before taking on this business.

A. Yes.

Q. And the Curtis boys as they exist now. Will you go on with your explanation?

A. Well, these newsboys, what I call newsboys—down town boys, and who sell papers on the docks and street car crossings, they are not classed as our kind of boys with the Curtis Publishing Company. They are just called regular newsboys. Those boys will sell newspapers and Curtis publications. What we call our kind of boys, they will just sell Curtis publications, and may carry an evening newspaper route or so. They don't sell any newspapers on the street, or go from house to house with any newspapers, and try to sell. They may have customers of their own.

RE-DIRECT EXAMINATION.

By MR. SPIESS:

Q. Are you speaking of today, or when you first took over this Curtis agency?

A. That holds good today.

Q. But it did not hold good when you took the agency, did it?

A. Well, we first worked with the newsboys.

Q. That is what I thought.

A. As they brought "The Saturday Evening Post" before the public more so, that was different than any other way.

MR. SPIESS: That is what I was trying to get at.

MR. DALY: That is all.

RE-CROSS-EXAMINATION.

By MR. MILBURN:

Q. Then working here under the League has developed, and you have developed, the method of doing business in operation today?

A. Yes, sir.

EXAMINER MOORE: Is that all?

MR. SPIESS: That is all.

(Witness excused.)

JOHN O'DONNELL, called as a witness on behalf of the Commission, having been first duly sworn by the Examiner, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Dale:

Q. Give your name and address, Mr. O'Donnell.

A. John O'Donnell.

Q. Where do you live?

A. I live at 730 City Park Avenue.

Q. Toledo?

A. Toledo, Ohio.

Q. What is your occupation?

A. Wholesale newspaper and magazine agent.

Q. And how long have you been in business?

A. Since August, 1916.

Q. What magazines did you handle at the time of your beginning business?

A. The Hearst group of magazines, the Munsey group of magazines.

Q. Were they the first magazines you had on?

A. I succeeded the Miami News Co. and took over everything that they were handling.

Q. And what was that?

The Curtis group, the Munsey group, Collier's, Etude, Pearson's.

Q. And the newspapers?

A. And the Chicago, Cleveland, and Detroit newspapers, daily and Sunday.

Q. Now, did you enter into a contract with the Curtis company at that time?

A. I did.

Q. Have you it with you?

A. I am sorry to say that I overlooked it.

Mr. Dale: (Addressing opposing counsel): That is correct, is it?

MR. MILBURN: Oh, yes, subject to Clause 13.

MR. WELCH: We admit that.

By MR. DALY:

Q. There is a Clause 13 in that contract, isn't there?

A. There is.

Q. That you know about. Do you know what it is?

A. Yes. Well, the sum and substance of it is that to secure the consent, or attempt to secure the consent, of The Curtis Publishing Company before taking over for distribution other magazines.

Q. Now, did you ever—Were you ever asked to handle the "Pictorial Review"?

A. I was.

Q. When?

A. Last February or March.

Q. Did you take it on?

A. I did not.

Q. Why?

A. Because I was advised not to do it by two—by one representative of The Curtis Publishing Company.

Q. Who was that?

A. A Mr. M. D. Reynolds.

Q. Did any one else object to you?

A. Well, I wrote a personal letter to Mr. Douglas and asked him if he had any objections to my taking over the "Pictorial Review."

Q. Have you the letter?

A. Yes.

Q. Did you get a reply?

A. I haven't got that there; I am sorry.

Q. Well, did he consent to it?

A. No, he did not consent to it.

Q. So you did not take it on?

A. I did not take it over.

Q. Did you handle it at all?

A. I did not.

Q. Buy any number of copies at all, did you?

A. I did not.

Q. What equipment have you for the distribution of magazines and newspapers?

A. Automobiles and street cars.

Q. How many automobiles have you?

A. I have one of my own, and rent four.

Q. And how many dealers are there in that city that you serve?

A. Approximately 280.

Q. Is there any other wholesale dealer there?

A. There are two.

Q. Who are they?

A. Toledo News Company and the Toledo News Agency.

Q. What do they handle?

A. The Toledo News Agency handles "Pictorial Review," "Jim-Jam Gems," the "Detroit Free Press" and the "Cincinnati Enquirer."

Q. What does the other one handle?

A. The other one handles such magazines as the "Red Book," "Blue Book," and all magazines that Mr. Wicks, who owns the Toledo News Agency, and myself don't handle.

Q. Is that a branch of the American News Co.?

A. The Toledo News Company is a branch of the American News Co.

Q. Now, do you handle the "Literary Digest"?

A. I do.

Q. How long have you handled that?

A. April, 1917.

Q. Did you get permission from the company to handle that?

A. I did not ask for permission.

Q. You put it on?

A. Put it on.

Q. Now, what have you done about handling "Every Week," if anything?

A. The Agency for "Every Week" was offered to me by J. W. Glenister, representing "Every Week." and I was instructed not to take it, by a Mr. Attix and Mr. Reynolds.

Q. Of The Curtis Publishing Company?

A. Of The Curtis Publishing Company.

Q. Then you asked permission, did you?

A. I did.

Q. Did you put up cash security under your contract?

A. Yes, sir.

Q. How much cash did you deposit?

A. Three hundred fifteen—well, my first deposit was seven hundred ninety-nine dollars fifty-four cents, of which—

Q. Was that at the time you entered into the contract?

A. It was.

Q. Of which—What were you going to say?

A. Three hundred and fifteen dollars was to be a cash deposit, and the balance of $435 or so was to apply on account for future delivery, two weeks' issues of the "Post" and one issue of the "Ladies' Home Journal" in advance.

Q. This $495 was put up for these magazines that you have mentioned, is that correct?

A. Yes, sir.

Q. In reality, you had up only the $315?

A. Only the $315.

Q. Now, when did you increase your deposit, if you did?

A. I didn't increase it, haven't been told as yet, or requested to do so.

EXAMINER MOORE: You say you have been requested?

THE WITNESS: I have not as yet.

By MR. DALY:

Q. How many boys have you?

A. Upwards of three hundred.

Q. How many exclusively are Curtis boys?

A. Thirty.

Q. And what is your definition of a Curtis boy?

A. A boy who handles Curtis publications exclusively.

Q. Now, you make reports to the company, don't you, about these boys?

A. I do.

Q. And do you put any boys in there except these that handle Curtis publications exclusively?

A. I do.

Q. What other boys would that report show?

A. That would show probably twenty more boys who handle both newspapers and magazines, such as "Cosmopolitan," and "All Story," and "Literary Digest," and "Collier's."

Q. Now, what have you received, if anything, for instructing or training these so-called Curtis boys?

A. Less than ten dollars.

Q. And in what way did you receive that?

A. One check for five dollars, and a check for a dollar, I think, on either two or three occasions.

Q. That was for training the boys, was it, or for securing boys?

A. Well, the letter read for causing such and such a boy to have a sale of 50 or 60 copies, or whatever it might be, "We take pleasure in enclosing check for a dollar."

Q. And in order to get that money the boy had to show an increased sale, did he not?

A. Yes, sir.

Q. Unless he did you did not get any money for that service?

A. No.

Q. Do you go into the homes and train these boys?

A. No.

Q. Or the schools?

A. No.

Q. To secure them?

A. No.

Q. How many Curtis boys, these exclusively Curtis boys, did you have when you began business?

A. Possibly 25 or 26.

Q. And you have now, you say, how many?

A. Thirty.

Q. Thirty. Are they all the same boys that you had when you began?

A. No; there is some of them dropped out, possibly six or seven, and other ones came in.

Q. You mean six or seven dropped out?

A. Yes.

Q. During that period?

A. Went to work some place, you know, moved away, or for some reason or another.

Q. Did I ask you how many magazines you handled for the Curtis company?

A. No.

Q. Will you please state that?

A. Four thousand eight hundred "Saturday Evening Posts," 450 "Country Gentleman." and my order on the February issue of the "Ladies Home Journal" is 2000 copies.

Q. Then this $1,000 you would have up, that you have on deposit as cash—

MR. MILBURN: He has not got $1000 on deposit.

By Mr. Daly:

Q. The $300,—would that represent about the value of these papers or not?

A. Just about.

Q. That is the reason of that $300, is it not?

A. Yes.

Q. Now, what percentage of your business is the Curtis company?

A. I should say one-tenth.

Mr. Daly: That is all.

Cross-Examination,

By Mr. Milburn:

Q. What percentage of your magazine business is the Curtis business?

A. About thirty per cent.

Mr. Milburn: That is all.

Re-Direct Examination.

By Mr. Daly:

Q. Just one more question: Did I ask you whether or not you had instructed boys,—what you actually did about instructing the Curtis boys, so-called Curtis boys?

A. Did you ask me? No.

Q. Well, I ask you now.

A. No.

Mr. Daly: That is all.

Examiner Moore: You asked him whether he went to the schools and whether he went to the homes?

By Mr. Daly:

Q. Yes, but what other instruction,—did you give them any instruction?

A. No.

RE-CROSS-EXAMINATION.

By MR. MILBURN:

Q. How long have you been the agent?

A. Since August, 1916.

MR. MILBURN: That is all.

MR. DALY: That is all.

(Witness excused.)

---

TAD M. SHAW, called as a witness on behalf of the Commission, having been first duly sworn by the Examiner testified as follows:

DIRECT-EXAMINATION.

By MR. DALY:

Q. What is your name?

A. Tad M. Shaw.

Q. Where do you reside?

A. Grand Rapids, Michigan.

Q. Now, what are you dealing in, Mr. Shaw?

A. Newspapers and magazines.

Q. Are you a wholesale dealer?

A. Both wholesale and retail.

Q. How long have you been at that business?

A. Since October 11, 1915.

Q. Have you a contract with the Curtis Company?

A. Yes, sir.

Q. Let me look at it. What is the date of that contract?

A. I believe it is dated some time in October, or the first of November. That contract is the very last document on the back. (Handing papers to counsel.)

Q. Are you familiar with the terms of Section 13 in this contract?

A. Yes, sir.

Q. Will you state what it refers to?

A. I don't remember the exact wording. It is——

Q. Is it the usual——

MR. MILBURN: We admit it is the usual Clause 13.

By MR. DALY:

Q. Now, this contract is dated November 13, 1915. Were you asked to handle the "Pictorial Review," or not?

A. I was.

Q. When?

A. I believe it was the early part of February, last year.

Q. 1917?

A. 1917.

Q. By whom were you approached?

A. I was first approached by letter and later by—

Q. Letter from whom?

A. From Mr. Mackinnon of the The Pictorial Review Company.

Q. And did you reply to the letter?

A. I did.

Q. Did you take on the "Review"?

A. Not at first; no, sir.

Q. Why?

A. Because the Curtis Company had in the meantime written me that they would not sanction handling it.

Q. You had been notified then that they would not permit you to handle the "Pictorial Review," is that correct?

A. Yes, sir.

Q. I am trying to find the letter.

A. It is along towards the bottom. (Indicating).

MR. SPIESS: Here it is. (Producing a paper).

By MR. DALY:

Q. Will you look at this letter, dated February 15, 1917? (Handing paper to the witness).

A. Yes, sir.

Q. Is that the letter that you wrote to them with reference to the "Pictorial Review"?

A. It is.

MR. DALY: We offer this letter, dated February 15, 1917, from Mr. Shaw to the Curtis Company, with reference to the matter of the "Pictorial Review.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 132," and the same is in the words and figures following, to wit:)

COMMISSION'S EXHIBIT NO. 132.

(Letterhead of): "SHAW NEWS AGENCY
45 Cherry Street, S. W.
Grand Rapids, Mich.
February 15, 1917.

Curtis Publishing Co.
Philadelphia, Pa.
Circulation Dept,
Gentlemen:

I enclose herewith headings of 19 Posts of January 27th and two headings of February 2nd. The first are of the issue that arrived late, getting here on Saturday which I believe entitles me to credit for them even though you are not receiving them on the date you should ordinarily.

I also wish to write you in regard to a letter I have received from the Pictorial Review Company asking me if I wished to handle their publication. In their letter they mention specifically that they are not attempting to take advantage of another publication's boy organization and that all they are desirous of is good newsstand represen-

tation. Under these conditions I do not suppose you will have any objections to my handling their magazine. I am writing you at this time as per clause in my contract. For your information I might say that without taking the matter up with you I definitely turned down the "Every Week" Magazine, knowing that in all probability you would object to it.

An early reply will be appreciated.

Yours very truly,
SHAW NEWS AGENCY
(Per.) T. M. Shaw"

(Rubber stamps:) "RECEIVED
Feb. 23, 1917,
F. M. B."

"RETURNS SENT TO RETURN DESK.
R 109. Feb. 21, 1917."

"ANSWERED
Feb. 23, 1917.
M. E. D."

(Penciled memo., first paragraph:) Attention given.

J. F. D."

By MR. DALY:

Q. Now, you got a reply, did you not?

A. I did.

Q. Will you look at this telegram, dated February 23, 1917? (Handing same to the witness.)

A. Yes, sir.

MR. DALY: We offer the telegram refusing the sanction.

EXAMINER MOORE: The telegram is received in evidence without objection.

(Whereupon the said telegram was received in evidence by the Examiner, marked "Commission's Exhibit No. 133," and the same is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 133.

(On Postal telegraph blank, being a carbon copy.)

"February 23, 1917.

Shaw News Agency
45 Cherry Street, S. W.
Grand Rapids, Michigan.

We cannot sanction your wholesaling Pictorial Review. Letter follows.

M. E. DOUGLAS."

By MR. DALY:

Q. Now, will you look at this letter from Mr. Douglas with reference to this matter? Look at that letter. (Handing a letter to the witness.)

A. Yes.

Q. Is that the letter you received in reply?

A. Yes, sir.

MR. DALY: You don't object to that, do you, Mr. Milburn?

MR. MILBURN: No.

MR. DALY: We offer the reply.

EXAMINER MOORE: The reply is received in evidence without objection.

(Whereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 134," and the same is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 134.

(A carbon copy.) "February 24, 1917.

Mr. T. M. Shaw
45 Cherry Street, S. W.
Grand Rapids, Michigan.

Dear Mr. Shaw:

Supplementing our reply to your telegram dated February 22, concerning the PICTORIAL REVIEW.

Our mutual interests, yours and ours in common, will be best served by your not making any arrangements to wholesale "The Pictorial Review."

That you may get our exact shade of meaning, let me quote from a letter recently mailed to a Curtis District Agent in another state, of whose loyalty to us we were not wholly confident, as we are of your loyalty. In that letter to the other District Agent we said:

'If you were to undertake it (wholesaling the same periodical mentioned in your letter), directly or indirectly, we should wish to cancel your arrangements with us.'

There is nothing temporary or uncertain about our policy of continued direct supplies to District Agents including you in accordance with our contracts, and we believe our mutual interests, yours and ours alike, will be best served by the maintenance of methods and policies above mentioned.

At your convenience in the course of a few days, we shall be very glad to have you tell us what is your preference with respect to the continuance of the very pleasant relations which have so long existed between us.

We are especially interested in your efforts with THE COUNTRY GENTLEMAN at this time, and we are willing and anxious to pay handsome, liberal bonuses for COUNTRY GENTLEMAN increases during months to follow.

With kind personal regards,

Very truly yours

THE CURTIS PUBLISHING COMPANY.

*District Manager.*

Dictated by
MED BHL

P. S. Thank you very much for the action

taken with respect to the proposal by EVERY WEEK. The reason that influenced you to take that action without referring the proposal to us is twin brother to our reason for withholding sanction of the PICTORIAL REVIEW arrangement.

Piet
Marg."

(Rubber stamp): "REFER TO MR. DOUGLAS."

By MR. DALY:

Q. Now, I hand you a letter dated March 3, 1917, to the Curtis Publishing Company by you. Will you identify that letter as your letter to them? (Handing paper to witness.)

A. It is.

Q. With reference to the "Pictorial Review" matter, this same matter?

A. Yes.

MR. DALY: We offer that.

MR. MILBURN: No objection.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 135," and the same is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 135.

(On letterhead of): "SHAW NEWS AGENCY
Grand Rapids, Mich.
March 3, 1917.

Mr. M. E. Douglas
Curtis Publishing Co.
Philadelphia, Pa.
Dear Mr. Douglas:

"I am in receipt of your letter of February 24 re PICTORIAL REVIEW, and am frank to say that

I cannot see how our mutual interests can be disastrously affected by my making any arrangements to handle the Pictorial Review. I cannot look at it except in the one way, that is a limitation on the amount of profit that an agent is to be allowed to make on publications which in my opinion will not work out to your disadvantage. In a city of this size it would be impossible to operate a Curtis Agency without handling other publications, either magazines or newspapers. That is, it would be impossible to give the same service that I try and render to my dealers and boys. As a matter of fact, Mr. Douglas, it requires very close attention to enable me to get a profit from Curtis publications commensurate with the work and investment involved, even though I have the equipment on hand and am in a position to work in some of my other work with yours.

I also wish to ask you about the Ladies' Home who have offered me their publication. The nature of this magazine can not make its coming into my agency objectionable to you.

I trust you will advise me as soon as possible that you will be able to withdraw your objections to the Pictorial Review, and that the Ladies' Home will not be objectionable.

Yours very truly,

Shaw News Agency,

F. W. Shaw.

(Rubber stamp): "Received
Mar. 7, 1917
F. W. S."

"Date Mar.
Mar 6 1917
Shaw"

"Answered
Mar 7 1917
W. H. D."

By Mr. Daly:

Q. Now, you handled "Pictorial Review" for a while, did you? Is that what you have stated?

A. No, sir. At first I did not handle it.

Q. What do you mean by "at first,"—when you got—At the time of these communications?

A. At the time of these communications I—After being advised that they would not sanction my handling it, I made arrangements for one of my old employees to take it over.

Q. Well, how was it distributed?

A. He distributed it.

Q. You distributed it?

A. No, sir, he did.

Q. Now, how many copies—You say at first you did not take it over. What do you mean by that? Did you afterwards take it over?

A. I did.

Q. When?

A. About three or four months later.

Q. Now, are you selling under contract with the Curtis company?

A. I am.

Q. And you are handling the "Pictorial Review" also?

A. Yes, sir; my—the present issue, the one dated tomorrow, is the last that I handle of their publications.

Q. You have been notified, have you, that the contract would be changed?

A. I believe that I served the notice. It was my desire to discontinue.

Q. On account of this contract—this clause, is that the reason?

A. That was one reason.

Q. Now, did you handle "Every Week," ever?

A. No, sir.

Q. Did you try to handle it?

A. No.

Q. Now, do you handle "Literary Digest"?

A. Yes, sir.

Q. You were asked to handle that, were you, by "The Literary Digest" people?

A. I was.

Q. Did you ask the consent of Mr. Douglas to handle that paper?

A. Yes, sir.

Q. Will you look at this telegram dated March 7, 1917? (Handing telegram to the witness.)

A. Yes, sir.

Q. Is that the telegram that you received from Mr. Douglas with reference to that?

A. Yes, sir.

Q. Will you look at a letter dated March 8, 1917, referring to the same publication? (Handing letter to the witness.)

A. Yes, sir.

Q. Did you receive that also?

A. I did.

Q. They permitted you to take it on under the conditions set out in that letter, did they?

A. Yes, sir.

MR. DALY: We offer this telegram, dated March 7, 1917, with reference to the "Literary Digest."

(Whereupon said telegram was received by the Examiner, marked "Commission's Exhibit No. 136," and the same is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 136.

(Postal Night Lettergram blank.)

"March 7, 1917.

Shaw's News Agency
45 Cherry Street, S. W.,
Grand Rapids, Michigan.

Conditional Literary Digest sanction given in letter following. Await receipt. This illustrates our policy of conceding to your individual interest everything we can without sacrificing mutual interests.

M. E. DOUGLAS."

MR. DALY: And we offer the letter, dated March 8, 1917, with reference to the same subject.

MR. MILBURN: No objection.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 137," and the same is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 137.

(Carbon copy of letter.)

"March 8, 1917.

Shaw's News Agency,
45 Cherry Street, S. W.,
Grand Rapids, Michigan.

Gentlemen:

You ask for our approval of your undertaking to wholesale the LITERARY DIGEST.

We have no present objections to your wholesaling this publication to newsdealers only; that is, provided you refrain from supplying copies to boys.

And, of course, if you were to furnish to these publishers, or their representatives, any list of

names of any retailers whom you now supply with our publications, the above approval would have to be withdrawn.

Moreover, we particularly advise that you do not make with these publishers any arrangement from which you could not withdraw on thirty days' notice; for if your arrangement with them should weaken your service with our publications, or result in interference with our plans or policies, we should withdraw the conditional approval above given you.

While the idea of your divorcing your efforts to the above extent from our publications arouses no enthusiasm, nevertheless it looks as if you can, if you will, handle it in such a way as not to result to our disadvantage.

As before stated, our disposition is to concede to your individual interest everything we can without sacrificing mutual interests.

Very truly yours,

THE CURTIS PUBLISHING COMPANY.

Dictated by *District Manager.*
MED SM."

By MR. DALY:

Q. How many boys have you?

A. Approximately ninety.

Q. How many of them handle Curtis magazines exclusively?

A. Exclusively?

Q. Yes.

A. Why, I don't know. Some of them may. Out of the ninety there is ten that don't handle them at all, and there is about—I presume half of the remainder that have daily paper routes.

Q. Well, do those with daily paper routes handle any magazines?

A. There might be one or two.

Q. Now, then; what do the remainder handle?

A. I don't understand which remainder,—the ten?

Q. You say you have about ninety boys now, ten of which do not handle any magazines.

A. They handle——

Q. Newspapers exclusively?

A. Newspapers exclusively.

Q. Now, then; how many are there that handle newspapers and magazines?

A. I should imagine about forty.

Q. About forty of them?

A. Yes, sir.

Q. Now, then; what do the remainder—that is fifty accounted for, now what do the other forty handle?

A. Curtis publications exclusively.

Q. Exclusively, that is what I wanted to know. Now, how many wholesale dealers are there,—or retail dealers are there, in your city?

A. About one hundred and fifty.

Q. Do you serve all of them?

A. Yes, sir.

Q. Is there another wholesaler there or not?

A. A branch of the American News Company.

Q. Is there?

A. Yes, sir.

Q. Do you know how many they serve,—if you know.

A. Less than a hundred.

Q. Less than a hundred. That is all.—Oh, wait: I want to ask you the number of copies you serve, have I asked you that question?

A. Yes.

Q. How many?

A. 3600 "Posts," 450 "Gentleman," and about 700 "Journals."

Q. Now, you have put up cash security, haven't you?

A. Yes, sir.

Q. How much security have you deposited?

A. $300.

Q. Now, what proportion of your business does the Curtis publications make up?

A. You mean in profits?

Q. No; the aggregate sales.

A. About—Oh, an eighth, I should imagine, or a fifth; somewhere between that.

MR. DALY: That is all.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. What proportion of your magazine business is it?

A. About one-half.

Q. What is the name of the branch of the American News Company in Grand Rapids?

A. The Grand Rapids News Company.

MR. MILBURN: That is all.

MR. DALY: I asked you, Mr. Shaw, if your contract was canceled, didn't I? I am sure I did.

MR. MILBURN: He said he handles this last issue. This issue is the last.

(After informal discussion:)

EXAMINER MOORE: We will adjourn until Monday morning, gentlemen. At what hour?

MR. SPIESS: Ten-thirty.

MR. DALY: Ten-thirty,—I think we can handle it. Or ten o'clock.

EXAMINER MOORE: Ten o'clock, then, Monday, at Columbus, Ohio, Room ——, Federal Building.

(And thereupon at the hour of 4.30 o'clock P. M., an adjournment was taken until Monday, January 21, 1918, at Room ——, Federal Building, Columbus, Ohio, at ten A. M.)

*Federal Trade Commission*
v.
*Curtis Publishing Company.*

Room 48, Federal Building,
Columbus, Ohio,
Monday, January 21, 1918.
11 o'clock A. M.

Met pursuant to adjournment.

Present as before.

EXAMINER MOORE: Proceed.

SCOTT KRAUSS, called as a witness on behalf of the Commission, having been first duly sworn, by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Will you please give your name and address?

A. Scott Krauss, 77 East Spring street, Columbus, Ohio.

Q. What is your business?

A. My business is wholesale distributing of newspapers and magazines.

Q. What magazines do you distribute?

A. I am now distributing Hearst's publications, "Collier's," Munsey's publications, "Pictorial Review," "Literary Digest" and others.

Q. How do you distribute these magazines and papers in Columbus?

A. Through dealers.

Q. And how many are there?

A. Approximately 225.

Q. How many do you cover?

A. All of them.

Q. You said that you represent the—Did you handle the Curtis publications?

A. I did handle them; yes, sir.

Q. You did handle them?

A. Yes, sir.

Q. Is this the contract under which you operated with the Curtis Company? (Handing paper to the witness.)

A. Yes, sir.

Q. Dated the twelfth day of March, 1913?

A. Yes, sir.

MR. DALY: This seems to be joint form PJG-3, and the section that we have reference to in this case is Section 8. Will you look at that section? (Handing paper to Mr. Welch.)

MR. WELCH: It is eleven.

MR. DALY: Eleven, is it?

MR. WELCH: Yes.

MR. DALY: Section 11, is it?

MR. WELCH: It is Section 11.

MR. DOUGLAS: It is Section 11 in this contract, but I think there is a later contract.

MR. WELCH: Yes.

By MR. DALY:

Q. Is this the latest contract that you have?

A. I am not certain as to that.

MR. DOUGLAS: Well, I think there is a later contract.

MR. SPIESS: JDA-1 is the next one, March 21, 1914— That is Section 11. Here it is. (Indicating.) JDA-3, here it is (Indicating.)

MR. WELCH: That is the one.

MR. SPIESS: Section 13. Yes, that is all right.

By MR. DALY:

Q. I hand you a form of contract JDA-3, executed by you to the Curtis Publishing Company, dated Octo-

ber 23, 1915. (Handing paper to the witness.) I ask you if you are familiar with the—Do you know what Clause 13 is in that contract?

A. Yes, sir.

Q. What is it?

A. Not to distribute any other magazine or publication without first obtaining the consent of The Curtis Publishing Company—to boys or dealers.

Q. Now, did you ever ask the consent of The Curtis Publishing Company to permit you to sell other magazines under that contract?

A. I have on—let's see, I forget just the exact number of years ago. I would say about——

Q. And you were under contract prior to this time, were you?

A. Yes, sir.

Q. This contract?

A. Yes, sir.

Q. That I have shown you?

A. Yes, sir.

Q. Now, just on what occasions was it that you asked permission to handle other publications? Will you give them?

A. About three or four years ago I bought over a competitor's business which handled—took in Hearst's publications, Publisher's News magazines, and Chicago papers, and Cleveland papers. At that time I wrote or wired them to obtain their permission to handle that, and they gave me such permission.

Q. Now, then, at any other time did you ask permission?

Q. Yes, I asked permission for to handle "Collier's Weekly."

Q. Well, what happened about that?

A. They gave me their permission.

Q. When was that, do you recall?

A. I don't recall the date; no, sir. I think there is

a letter in there pertaining to that. (Indicating a file of papers.) I am not certain as to whether there is a letter in there, but there is a letter pertaining to that.

Q. Well, you obtained permission to handle the "Collier's Weekly"?

A. Yes, sir.

Q. Now, what other instance, if you have any?

A. Well, Munsey's magazines, I had those previous to handling the Curtis magazines, and later they broke away from the Independent agents and went to the American News Company, and then later went to the Independent agents. If I recall correctly, I don't believe that I asked——

Q. What do you mean by Independent agents, the Independent——

A. Well, Independent American News Company agents that handle magazines, independent of——

Q. The dealers?

A. That supply or get their copies direct from the publishers.

Q. Well, go ahead.

A. And at that time inasmuch as I had been handling Munsey's publications, I did not write and get that consent—their consent.

Q. You did not?

A. No, sir.

Q. Were there any objections?

A. No, sir.

Q. Raised by the Curtis Company in that case?

A. No, sir.

Q. Now, did you in any other instance, in which you asked permission?

A. None that I can recall at the present.

Q. Do you handle the "Pictorial Review."

A. Yes, sir.

Q. How long have you handled that?

A. Since—I forget the exact date, but I think it is about March of 1917.

Q. Were objections raised?

A. Yes, sir.

Q. As to your handling that?

A. Yes, sir.

Q. By the Curtis Company?

A. Yes, sir.

Q. In what way were those objections raised?

A. They called my attention to Clause No. 13, and their representative who called on me at that time stated that I would have to choose between the two, and I told him that I would and I chose the "Pictorial Review."

Q. And your contract was canceled, was it?

A. Yes, sir.

Q. With the Curtis Company?

A. Yes, sir.

Q. Did you receive a notice from them to that effect?

A. Yes, sir. There is a letter there pertaining to that. The letter is dated March 24, I believe.

Q. Last year?

A. There is two letters there. One says, "Enclosed find check," and the other is from Mr. Douglas.

Q. Will you look at this letter dated March 4, 1917, from The Curtis Publishing Company to you. (Handing paper to the witness.)

A. Yes, sir.

Q. Is that the letter you received?

A. Yes, sir.

Q. With reference to your contract,——canceling your contract?

A. Yes.

MR. MILBURN: No objection.

MR. DALY: We offer this letter, Mr. Examiner.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 138," and the same is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 138.

(On letterhead of): "THE CURTIS PUBLISHING COMPANY

Philadelphia

March 24, 1917

Mr. Scott Krauss
77 Spring Street
Columbus, Ohio

Dear Mr. Krauss:

We understand that you have made with other publishers arrangements contrary to Clause 13 of your agreement with us and without our approval.

After repeated effort to persuade you to a conference upon the subject, we are forced to the conclusion that you are unwilling to confer, and we therefore notify you that your agency is hereby canceled for breach of contract with us. We can send no more of our copies to you.

Personally I am very sorry that you forced us to this action.

Very truly yours,
THE CURTIS PUBLISHING COMPANY.
C L Georgenn (M?)
*District Manager*

Dictated by
MED BHL M. E. Douglas"

By MR. DALY:

Q. Will you look at a letter dated March 24, 1917, with reference to the same matter? (Handing paper to witness.)

A. Yes, sir.
Q. You received that?
A. Yes, sir.

MR. DALY: It is as to settlement, is all. (Addressing opposing counsel.)

MR. MILBURN: No objection.

MR. DALY: We offer this.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 139," the same being in words and figures following, to wit):

COMMISSION'S EXHIBIT No. 139

(On letterhead of): "THE CURTIS PUBLISHING COMPANY

Philadelphia

March 24, 1917.

Mr. Scott Krauss
77-79 East Spring Street
Columbus, Ohio

Dear Mr. Krauss:—

With this letter we inclose our check for $124.73 which is the credit balance on your sales account at the close of Friday, March 23.

Mr. Douglas is mailing you a letter today explaining our reason for severing our present business relations. I too am very sorry that it was necessary to take this action, as I have personally enjoyed working with you.

We shall at once have an audit made of your sales account and will promptly send to you a check for any additional credit balance there may be on your sales account. At your convenience will

you kindly advise us when your last returns will be forwarded?

Very truly yours,

THE CURTIS PUBLISHING COMPANY.

C L Georgean (?)

*District Manager*

CLG YS

Refund $124.73."

By MR. DALY:

Q. Getting back to "Collier's" again, will you look at a letter dated February 15, 1917, with reference to the sale of "Collier's Weekly"? (Handing paper to witness.)

A. Yes, sir.

Q. That was received by you, was it?

A. Yes, sir.

Q. From the Curtis Company?

A. Yes, sir.

MR. MILBURN: No objection.

MR. DALY: We offer this letter.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 140," the same being in words and figures following, to wit):

COMMISSION'S EXHIBIT No. 140

(On letterhead of): "THE CURTIS PUBLISHING COMPANY

Philadelphia

Feb. 15, 1917.

Mr. Scott Krauss

77 Spring Street

Columbus, Ohio

Dear Sir:—

In March, 1914, at your request made accord-

ing to Clause 13 of your contract with us, we sanctioned your taking a wholesale agency for COLLIER'S WEEKLY, with the understanding that you would limit to newsdealers only your deliveries of that periodical.

Later, similar sanction was given to three or four other District Agents who made the same request.

Recently our attention has been called to efforts, inconsistent with the condition upon which we sanctioned the arrangement, made or planned to induce P-J-G boys to sell COLLIER'S.

ARE YOU NOW WHOLESALING
COLLIER'S TO BOYS?

A proper regard for our mutual interests now requires that we ascertain whether or not you are supplying COLLIER'S to boys. We shall appreciate an early reply with full particulars.

This is a general letter to each District Agent at whose request we sanctioned a COLLIER'S arrangement like that made by you.

Very truly yours,
THE CURTIS PUBLISHING COMPANY.
C. L. Georgean
*District Manager*

C#1
Dictated by
MED RB M. E. Douglas"

MR. SPIESS: Did you get that in there? (Indicating.)

MR. DALY: Yes, but not the original. We will substitute the original for the carbon.

MR. MILBURN: All right.

BY MR. DALY:

Q. Now, will you tell the Examiner how you dealt with the Curtis Company under this contract, how you

obtained the magazines from them, how you paid for them?

A. Why, by sending my check for the copies which I wanted, two weeks in advance; in other words, placing my order two weeks in advance; and enclosing a check covering that—that shipment, or an amount sufficient to cover that, leaving a little credit balance to overtake any—take care of an extras.

Q. Under the contract, which called for that?

A. Yes, sir.

Q. And you followed the terms of that contract in that respect?

A. Yes, sir.

Q. You deposited cash security, did you, when you made this contract?

A. Yes, sir.

Q. How much did you deposit?

A. Five hundred dollars.

Q. And that was the amount that was there at the expiration of your doing business with the Curtis Company?

A. Yes, sir.

Q. Do you handle the "Every Week"?

A. I do now, yes, sir, through boys.

Q. How long have you handled that?

A. Since about April, 1917, or after Curtis broke away.

Q. Were there objections raised to your handling that?

A. Well, at that time I was not under contract. That was after the Curtis and I had broke away.

Q. Oh, you took it on since?

A. Yes, since then.

Q. Oh! Now, what sort of boy organization had you when you were——

A. I had——

Q. ——selling the Curtis papers?

A. Approximately,—about 150 boys.

Q. How did you get them?

A. Well, in some instances they would write in and they would refer the boy back to me. In other cases, I had an offer up whereby I got or induced one boy to bring another. And then some came down voluntarily. Some came down who I knew the parents of—a number of boys, and I induced them to have the boy sell Curtis publications.

Q. Now, how many of those boys are what are termed "Curtis boys"?

A. Well, towards the last I would not say a great many of them. There was a very small percent.

Q. Well, at the first?

A. At the first, when I first took over the contract, the boys—they turned over an organization, that is, some boys—that is, I would say it was about twenty or thirty. But since, those boys, the majority of them, have quit selling. The new boys, why, I obtained the majority of them myself.

Q. Then the 100 boys that you had at the time that your contract was canceled, were those that you had obtained?

A. I would say yes.

Q. In chief?

A. Yes, sir.

Q. Did I ask you how many retailers there were? I think I did, didn't I?

A. Yes, sir; approximately 225.

Q. Now, how do you—what efforts, or what do you do about keeping—getting your magazines to the retailers in this city, how do you distribute them?

A. Distribute by truck we have.

Q. And how frequently do you get in touch with your retailers?

A. Well, in some instances each day; that is, those centrally located. Others, two or three times a week.

Q. Will you look at these three form letters? (Handing papers to the witness.)

MR. DALY: (Addressing opposing counsel.) They are the usual form letters in this case.

THE WITNESS: Yes, sir.

By MR. DALY:

Q. Did you receive them?

A. I did.

MR. DALY: We offer these.

MR. SPIESS: Just to be referred to?

MR. DALY: Referred to as exhibits.

MR. SPIESS: Referred to as the letters stipulated in New York.

EXAMINER MOORE: The letters are received in evidence without objection.

(Whereupon said letters were received in evidence by the Examiner, marked "Commission's Exhibit Nos. 141, 142 and 143," respectively, and the same are in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 141

(On letterhead of): "THE CURTIS PUBLISHING COMPANY

Philadelphia

CONCERNING YOUR DISTRICT AGENCY AGREEMENT.

At this time it is advisable to call to your attention Clause 13 in your contract, which reads as follows:

> 'To refrain hereafter from wholesaling to boys or dealers (and from attempting to influence any Curtis agent to sell) any periodicals other than those published by The Curtis Publishing Company, and to refrain from furnishing any other publisher, or his agent, with the

names and addresses of any Curtis agents, without first obtaining the approval of the Publishers.'

Should you be requested by anyone other than a representative of this Company to give him a copy of your Curtis sales report, and should you grant such a request, you will, of course, understand that you may compel us to enforce Clause 19 of your contract by which we are instructed to retain your cash security should you violate your agreement with us.

It is not the intention of this letter to intimate that you have violated your agreement in this way. This letter is being mailed to all our District Agents alike. Certain information, received from reliable sources, causes us to so write you for your own protection.

Very truly yours

THE CURTIS PUBLISHING COMPANY.

Wm. J. de Grouchy,

*Assistant Manager Sales Division.*

WJdeG-CL."

---

COMMISSION'S EXHIBIT No. 142.

(On letterhead of):

"THE CURTIS PUBLISHING COMPANY

Philadelphia, Feb. 5, 1917.

Mr. Scott Krauss,
Columbus, Ohio.

Dear Mr. Krauss:

The plans of another publisher and his agent (news company) lead us to remind you of Clause 13 of your Curtis contract. The purpose and effect of that clause are as follows:

*With respect to periodicals not previously wholesaled by you, you definitely agreed to refrain from wholesaling to boys or dealers any periodicals not our own without first obtaining our approval.*

Of course you will be very careful to make with the other publisher or his agent (news company) no arrangement contrary to your Curtis contract.

In justice to you and to avoid any situation which would be embarrassing to both you and us, we feel in duty bound to say that your arrangements with us may be continued only upon the basis stated.

Our relations have been so very pleasant that we hope to be able to supply and serve you indefinitely hereafter.

This is a general letter to all of our District Agents. Please attach it to your Curtis contract for future reference.

Very truly yours,

THE CURTIS PUBLISHING COMPANY.

M. E. Douglas,

MED. *Manager Sales Division.*"

---

COMMISSION'S EXHIBIT No. 143.

(On letterhead of):

"THE CURTIS PUBLISHING COMPANY

Philadelphia,

Feb. 28, 1917.

Dear Mr. Krauss:

To a few Curtis District Agents, statements by another publisher or his representative have

given a wrong idea about one clause of your contract with us. Therefore we again state the effect of that clause:

> You definitely agreed to obtain our approval *before* you make *any* new arrangements to wholesale to boys or *dealers* any non-Curtis periodical (Magazine).

You are hereby cautioned against any and all advice or solicitation contrary to this part of your contract.

And you will not fail to take notice that the clause covers wholesaling to dealers as well as to boys.

Of course, this does not apply to newspapers nor to arrangements in effect before the date of your contract with us.

You may not see why this letter is sent you. Probably no one has made representations as above. But such statements have been made to others, and we therefore send this general letter to all District Agents that all may have a full understanding.

> *At any time hereafter if you should desire to wholesale any other magazine, write for our approval and give us full particulars. This is the sure way to mutually satisfactory arrangements.*

Like our earlier notice, dated February 5, this letter should be attached to your Curtis contract for future reference.

Very truly yours,

THE CURTIS PUBLISHING COMPANY.

M. E. Douglas,

MED *Manager Sales Division.*"

By MR. DALY:

Q. Now, did you at one time handle a magazine called "The Companion," of the Crowell Company?

A. Yes, sir.

Q. Did you continue to handle it or not?

A. No, sir, I discontinued.

Q. Why?

A. Why, at the request of The Curtis Publishing Company.

Q. You were under contract with them then, were you not?

A. Yes, sir.

Q. Will you look at this letter, dated December 11, 1912, and one, dated May 1, 1913? (Handing papers to witness.)

A. That is my reply to the other.

Q. And your reply thereto, dated May 10, 1913. (Handing same to the witness.) Are those letters with reference to that matter?

A. Yes. sir.

MR. MILBURN: Well, I object to that on the ground that it relates to a transaction that took place prior to the passage of the section under which this complaint is drawn.

MR. SPIESS: The passage of the Clayton Act.

MR. MILBURN: Yes.

MR. DALY: Well, we submit——

MR. MILBURN: I just want to register a formal objection.

MR. DALY: On that ground?

MR. MILBURN: Yes.

MR. DALY: Well, we insist that this statute is applicable to transactions and contracts that are relevant to this proceeding that happened prior to the passage of the Clayton Act.

EXAMINER MOORE: Objections overruled.

MR. MILBURN: An exception.

EXAMINER MOORE: The exception is noted.

(Whereupon said letters were received in evidence by the Examiner, marked "Commission's Exhibits Nos. 144, 145 and 146," respectively, and the same are in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 144.

(On letterhead of):

"THE CURTIS PUBLISHING COMPANY
Philadelphia,

December 11, 1912.

Mr. Scott Krauss,
19 West Gay Street,
Columbus, Ohio.

Dear Sir:

Do you obtain directly from The Crowell Publishing Company the Woman's Home Companions which you supply to the dealers referred to in your letter, dated November 23?

Of the P-J boys who get our copies directly or indirectly from you, *how many* are now selling The Companion? Of *that* number, how many have begun selling The Companion since you began drawing your supplies from the Crowell Company?

Of the newsdealers now obtaining The Companion from you, what number did handle The Companion before you began drawing from the Crowell Company?

Of your P-J boys who do not now sell The Companion, how many have by you or your employees been requested to sell The Companion? For obvious reasons we feel that we may fairly ask each of these questions. We thank you in advance for replying fully and in detail.

And now for the moment we wish to lay business aside and send you our warm, personal wishes for a Merry Christmas and a Happy New Year.

Very truly yours,

THE CURTIS PUBLISHING COMPANY,
M. E. Douglas,
*Manager Sales Division.*"

MED BHL

---

COMMISSION'S EXHIBIT No. 145.

(On letterhead of):

"THE CURTIS PUBLISHING COMPANY
Philadelphia,

May 1, 1913.

Mr. Scott Krauss,
19 West Gay Street,
Columbus, Ohio.

Dear Sir:

Have you on display in your office Companion prize offers, posters or other announcements of inducements to agents or dealers? A report has reached me that you are actively wholesaling The Companion, both to boys and to dealers.

Since receiving this report I have read the letters we exchanged on the subject last fall. For obvious reasons I feel that we should know more about your Columbus efforts for The Companion.

Will you tell me how many copies of The Companion you sell each month, how many you sell through boys, how many boys sell The Companion for you, how many Companion copies you sell through dealers, and how many dealers handle The Companion for you? For obvious reasons I feel that we are entited to ask you this

information to arrive at a more definite understanding with you in regard to The Companion. Please write me fully on the reply sheet inclosed.

Very truly yours,

THE CURTIS PUBLISHING COMPANY.

M. E. Douglas,

*Manager Sales Division.*

MED BHL"

---

COMMISSION'S EXHIBIT No. 146.

(Being a carbon copy.)

"May 10, 1913.

The Curtis Publishing Company,
Philadelphia, Pa.

Mr. M. E. Douglas, Sales Mgr.

Dear Sir:

Replying to yours of the 1st, will say that I have a poster displayed in my office which has been hanging there for more than two months, offering a glove and ball to the boys securing the most new customers, during the month. I might add that in spite of my boys who are about to organize a ball team that none has made any effort whatever in trying to win either this ball or glove which has been offered for more than two months.

I assume that Mr. Reaveau gave the report that I am supplying dealers with Companions; such is not the case. Last month my Companions sale dropped to 95 copies; about two-thirds of this amount is sold by ten or fifteen boys.

Will gladly furnish you with any further information that I may be able to give.

Very truly yours,

SAK FS"

MR. DALY: That is all.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. How long were you a Curtis agent, Mr. Krauss?

A. Since October—well, from October, 1908, I believe was the——

Q. And when you undertook the agency the Curtis people turned over to you a list of boys who had been distributing their papers, did they not?

A. Well, I don't remember whether I received a list of them, but the boys were informed to come down to my place of business.

Q. Yes. They sent the boys to you?

A. Yes, sir.

Q. You said they turned over an organization of twenty?

A. About twenty boys, something like that.

Q. Twenty to thirty boys, something like that?

A. Yes, sir.

Q. And that during the time you were the agent the Curtis people worked with you in securing boys to sell papers and securing you boys, did they not?

A. Yes, sir.

Q. Their road men worked with you?

A. Yes, sir.

Q. And they advertised?

A. Yes, sir.

Q. And in conjunction with them—their business, you were familiar with the Curtis League of Boys?

A. Yes, sir.

Q. And did you have there a Ten Club?

A. Yes, sir.

Q. How many league members did you have, about?

A. Well, I don't just recall the amount of league members. I would say it was in the neighborhood of ten.

Q. And what was the Ten Club?

A. The Ten Club—a boy was to sell ten "Posts," six "Ladies' Home Journals" and two "Country Gentleman" in order to become a member of the Ten Club.

Q. And then that club would have what they called treats?

A. Yes; each month. Each month I—we had a meeting. I gave the boys talks and had some of the boys to get up and tell of their success, afterwards which I treated them to candy and then they took in a moving picture show.

Q. How many boys did you report during that time to the Curtis people?

A. As being members of the Ten Club?

Q. No; as selling—being Curtis boys, or how many names were on your weekly report?

A. Well, I don't just recall the amounts.

Q. Well, about? Approximately.

A. Well, I would say about 175 or 200, I would judge; I am not sure.

Q. And all of those boys, you reported them because they were selling the Curtis publications, isn't that so?

A. Yes, sir.

Q. And they were boys that you got through these efforts, through your own efforts and in response to Curtis advertisements?

A. Yes, sir.

Q. And in response to work done by the Curtis men?

A. Yes.

Q. With the parents, or in the school; is that correct?

A. Yes, sir.

Q. Mr. Krauss, the American News Company has a branch here, have they not?

A. Yes, sir.

Q. What is the name of that?

A. The Buckeye News Company.

Q. The Buckeye. And you have stated that at one time some years ago you purchased the agency of a competitor?

A. Well, that was not the Buckeye News Company, of course.

Q. No, but I mean that was another wholesaler, was it?

A. Yes, sir.

Q. And who is the Curtis agent here now?

A. Why, I understand that Mr. Charles Wilson, circulation manager of the "Columbus Dispatch."

MR. MILBURN: I think that is all.

MR. DALY: There are one or two questions——

By MR. MILBURN:

Q. Well, you said that you supplied all of the 225 dealers. You don't mean to say that you supplied them exclusively, do you?

A. No, sir.

Q. Don't they take magazines from the news company?

A. Well, no; all the dealers in town that handle newspapers and magazines, why, I supply. No, they are not supplied exclusively.

Q. They also deal with the news company?

A. Yes.

Q. And with the Curtis man, get the publications from him?

A. Well, I don't know what he supplies. That I cannot answer.

Q. Well, practically you know that they get Curtis publications?

A. Yes.

Q. Some Curtis publications from you, do you not?

A. Yes, sir.

MR. MILBURN: That is all.

MR. DALY: Two or three questions, a couple of questions I ought to have asked on direct, probably. I would like to ask them now.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. What percentage of your business is made up —was made up of the—by the Curtis publications, of the Curtis publications?

A. Why, about fifteen per cent.

Q. Now, when your contract was cancelled, what became of these boys you had?

A. Why——

Q. Curtis boys?

A. The Curtis Company—the Curtis Publishing Company simply notified them to obtain their copies at the "Dispatch" office.

Q. Well, I mean as to their working with you; did they continue to work with you or not?

A. Some of them did; yes.

Q. And do they still stay with you?

A. There are some few boys that come down and purchase different magazines which I handle.

Q. That is, of the boys that—of the exclusive Curtis boys, now, is that what you are talking about?

A. Yes. Well, now—they handle all, handle all of them.

Q. They come back and get magazines from you still, is that correct?

A. Yes, sir.

Q. How many "Saturday Evening Posts" do you handle—did you handle, did you sell?

A. I think my last order was about 5000 copies.

Q. How many "Country Gentleman," do you remember?

A. Well, approximately 500. I do not remember the exact figure.

Q. "Ladies' Home Journal"?

A. About 2600 or 2700, something like that.

MR. DALY: That is all.

RE-CROSS-EXAMINATION.

By MR. MILBURN:

Q. Mr. Krauss, you said that the Curtis business was fifteen per cent. of your whole business. That is —you wholesale newspapers, too, do you not?

A. Yes, sir.

Q. You counted newspapers in on that?

A. Yes, sir.

Q. What percentage or proportion is that of your magazine business?

A. Well, I could not answer that without——

Q. What was it, about?

A. Well, I could not say without first going over my books.

Q. You handled 76—about a little over 8000 copies a month for Curtis?

A. Yes.

Q. Would that be, roughly speaking, a half or a third of your magazine business, or more than that? I only want a rough estimate.

A. Oh, I suppose it would be— Well, I don't think it would be—I suppose about a third would be a fair estimate.

Q. Somewhere between a third and a half, would that be right?

A. Yes, sir.

Q. What was the first magazine that you wholesaled?

A. The first magazine was the Curtis Publishing Company—the "Saturday Evening Post."

Q. Yes, sir; that was the first of all?

A. Yes, sir.

Q. And that started you in your magazine wholesale business, is that correct?

A. Yes, sir.

MR. MILBURN: That is all.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. I want to ask one more question. Did you have—how many boys did you have altogether? I am not sure that I asked that.

MR. MILBURN: Yes; one hundred and fifty he said.

MR. DALY: One hundred and fifty. That is what I thought.

By MR. DALY:

Q. Now, how many Curtis boys were there in there? I think you testified to that.

A. You mean boys that——

Q. Exclusively handled—so-called Curtis boys.

A. Well——

Q. Boys that handled——

A. Handled Curtis magazines exclusively?

Q. Yes.

A. Well, I would say about practically all those were Curtis boys. I had a few boys came down there and on their own accord purchased other magazines, boys that sold—well, come down and sell——

Q. Now, what I am asking is this: You have stated you had 150 boys, I think.

A. Yes.

Q. Or 115 boys?

A. Yes; 150.

Q. Now, then, you said you had about twenty Curtis boys.

A. Well, that was when I first started.

MR. WELCH: That was at the beginning, they turned over an organization of twenty or thirty.

By MR. DALY:

Q. Well, that is what I am trying to get clear in my mind.

A. Yes, sir.

Q. Now, then, what did these boys sell that were left?

A. Why, Curtis publications.

Q. All of them?

A. Practically all.

Q. Yes?

A. Yes, they all sold Curtis publications.

Q. What did they sell besides?

A. Well, some of them came down of their own accord and purchased other magazines which I wholesaled.

Q. Did they handle newspapers?

A. No.

Q. How did you sell your newspapers?

A. Most of them were distributed by carrier and truck to dealers.

Q. Then these boys were the magazine boys?

A. Yes.

Q. Is that correct?

A. Yes, sir.

MR. DALY: I was not clear about that. That is all.

MR. MILBURN: That is all.

(Witness excused.)

HARRY R. DEWOLE, called as a witness on behalf of the Commission, having been first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Give your full name and address.

MR. SPIESS: May we have the correspondence relating to Mr. DeWolf?

(The correspondence was produced.)

THE WITNESS: Harry R. DeWolf, 50 Kentucky Avenue, Indianapolis, Indiana.

By MR. DALY:

Q. In what business are you engaged?

A. The wholesale news business.

Q. How long have you been in that?

A. A little over three years.

Q. And what did you sell when you began business?

A. Well, the Chicago papers, Curtis publications, the Publishers' News publications, and——

Q. What were they?

A. That was "Everybody's" — "Everybody's Magazine," "Adventure," "Delineator," and "Designer."

Q. Is that a new agency—was that a new business established, or did you purchase it from some one else?

A. I purchased it from another party.

Q. Now, do you still handle those same publications?

A. Well, with the exception of the Publishers' News publications.

Q. What happened to them?

A. Why, they went out of business, the Publishers News Co., I believe.

Q. Did you handle them until they went out of business?

A. Yes.

Q. Were objections raised to your handling them by the Curtis Company?

A. No, sir.

Q. Do you handle the "Pictorial Review"?

A. No, sir.

Q. Why?

A. Well, because I had a contract with The Curtis Publishing Company which stated that I should not take on any publications without their permission.

Q. Where is the contract?

A. I haven't given you that.

Q. Did you bring your contract?

A. Yes; I have it in my coat pocket.

Q. Will you get it, please?

(The witness produced the paper in question.)

MR. DALY: I am not offering the contracts every time, but I want to call his attention to the section.

MR. WELCH: No.

MR. DALY: I suppose technically maybe I ought to introduce every one.

MR. MILBURN: No. Well, you see, we admit the contract.

By MR. DALY:

Q. Will you look at section 13 of this contract? (Handing paper to the witness.) Look at section 13.

A. Yes, sir.

Q. Do you know what that section is?

A. Why, yes.

Q. What is it?

A. Well, to prepay all messages.

MR. SPIESS: No, no.

MR. DALY: No; you didn't look at it.

MR. WELCH: What is the number?

MR. DALY: JDA-1

MR. SPIESS: Look at No. 11.

By Mr. Daly:

Q. No. 11; look at section 11 in this contract. What does that section refer to?

A. That states that I shall not furnish any other publications, take on any new publications without first getting the permission of The Curtis Publishing Company.

Q. Have you other correspondence with you that you were asked to bring, Mr. De Wolf?

A. I have. (Producing papers.)

Q. Now, you asked permission to handle the "Pictorial Review," is that what you did?

A. Yes.

Q. Did you get that permission?

A. No.

Q. How did you make that request, Mr. DeWolf, by letter or not?

A. Yes, I wrote to them. I did not bring—in fact, I could not find the copy of my letter that I wrote to them asking for permission.

Q. But you did make a request by letter, did you not?

A. Yes, sir.

Q. Will you look at that letter dated February 14, 1917, from you to the company? Was that your request? (Handing paper to the witness.)

A. Yes, sir.

Q. Now, you received a reply, did you?

A. Yes, sir.

Mr. Daly: We offer this letter.

Examiner Moore: The letter is received in evidence without objection.

(Whereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 147," and the same is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 147.

(On letterhead of):

"DEWOLF NEWS CO.
50-52 Kentucky Ave.
Newspapers, Magazines and Periodicals.
Indianapolis, Ind.
Feb. 14, 1917.

Curtis Publishing Co.
Mr. Wm. J. DeGrouchy,
Philadelphia, Pa.

Dear Sir:

I am enclosing a letter from the Pictorial Review Co. which I just received this morning. I am not doing this to be insistent but to let you know what is going on. In this letter you will notice they say that they have given up the idea of boy sale and that they have discussed this proposed move with large publishers whom we now represent. I took from this that possibly they had talked to you and that you had thought it would be all right for us to handle it under these conditions.

However, I don't want you to feel that I want to in any way violate my contract with The Curtis Publishing Co. as I value your agency very highly.

I wish you would return this letter from the Pictorial Review as soon as you have looked it over as I have not answered it.

Very truly yours,
H. R. DEWOLF."

(Rubber stamps: "Answered
Feb 19 1917
M. E. D."

"Scatter
Feb 16 1917
Daily Mail."

THE WITNESS: I believe that small letter there is the reply. (Indicating.)

By MR. DALY:

Q. Two letters, one dated March 15 and one March 21, 1917, bearing upon that same matter.

A. Yes, sir.

Q. You received them from Mr. Douglas. Will you look at two telegrams there, to B. A. Mackinnon, dated February 21 and February 22, last year, with reference to taking on the "Pictorial Review"? (Handing papers to the witness.) I will ask you if those are telegrams that passed at that time.

A. Yes.

MR. DALY: We offer these letters.

EXAMINER MOORE: The letters are received in evidence without objection.

(Whereupon said letters were received in evidence by the Examiner, marked "Commission's Exhibits Nos. 148 and 149," respectively, and the same are in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 148.

(On letterhead of):

"THE CURTIS PUBLISHING COMPANY
Philadelphia

March 15, 1917.

Mr. H. R. DeWolf,
50 Kentucky Avenue,
Indianapolis, Indiana.

Dear Mr. DeWolf:

The District Agents who were the first to get a foothold as independent distributors through The Curtis Publishing Company know that we would not urge them into any arrangement that would be apt to result to their disadvantage.

By experience such District Agents have learned that it is wise to maintain good business

relations with the publishers who resort to no tricks or subterfuges with you, who never deceive you and who concede to your individual interest everything they can without sacrificing their individual interests and your larger interests.

If you have been told that certain other District Agents are wholesaling any periodical which we have not given you our sanction to wholesale, we hope you have concluded, Mr. DeWolf, that we are the most reliable source from which to obtain truthful information on the subject.

It is quite possible that you have been told, for example, that Messrs. Levy, Peterson, Schafer, Solomon, Katz, Nelson, Reiser, Goodman, etc., have arranged to wholesale other magazines the handling of which we have been unwilling to sanction; but we have put such information squarely up to these gentlemen, and their replies have failed to confirm any such rumors. In fact, they have denied them without qualification.

Let us urge you with all earnestness not to permit yourself to be irritated by any information along these lines before you have communicated with us, as there is no question but that much baseless information is being circulated with the intention of confusing the minds of those to whom it is sent.

Very truly yours,

THE CURTIS PUBLISHING COMPANY.

M. E. Douglas,

*Manager Sales Division.*

MED BM"

COMMISSION'S EXHIBIT No. 149.

(On letterhead of):

"THE CURTIS PUBLISHING COMPANY
Philadelphia

Mar. 21, 1917.

Mr. H. R. DeWolf,
50 Kentucky Avenue,
Indianapolis, Indiana.

Dear Mr. DeWolf:

Up to this time only one District Agent has announced his intention to wholesale The Pictorial Review without our approval and in disregard of his contract with us. Prompt action in that case has been taken.

Our former Columbus District Agent was disinclined to confer with us about the matter—seemed not to take our representations seriously.

Today we ratified a P-J-G contract with Mr. C. S. Wilson, Circulation Manager of the Columbus Post-Dispatch, who is to take charge of our agency there, effective with next week's issues.

District Agents elsewhere value their Curtis contracts at their true worth. They realize that there is nothing temporary or uncertain about continued direct supplies of our publications.

Very truly yours,
THE CURTIS PUBLISHING COMPANY.
J. F. Donnelly,
*District Manager.*

Dictated by
MED HG M E Douglas"

MR. MILBURN: All right. (Referring to the two telegrams above referred to.)

MR. DALY: We offer these.

EXAMINER MOORE: The telegrams are received in evidence without objection.

(Whereupon a telegram and letter were received in evidence by the Examiner, marked "Commission's Exhibits Nos. 150 and 151," respectively, and the same are in words and figures as follows, to wit):

COMMISSION'S EXHIBIT No. 150.

(On Postal form.) "228bnf 40 coll n1 829p
B Indianapolis Ind feb 20-17
B A MacKinnon,
216 W 39 St., Pictorial Review New York.

I want your agency but my contract with another publisher prohibits my taking on any new magazines without their permission. I have written them and expect an answer any time upon hearing from them will write you at once.

H. R. DEWOLF."

---

COMMISSION'S EXHIBIT No. 151.

(On letterhead of): "DEWOLF NEWS CO.
Indianapolis, Ind.

Feb. 22, 1917.

Pictorial Review Co.,
Mr. B. A. Mackinnon,
New York City.

Dear Sir:

Replying to your letter of Feb. 12th and also to your message of recent date, I would say that I have just heard from the publisher whom I referred to in my recent message to you and much to my regret it will be impossible for me to handle The Pictorial Review in this city.

I thank you for your offer and wish I could recommend some other party who could handle it

and give you a good distribution but at present there is not any person equipped to do it.

Very truly yours,

DeWolf News Co.
By H. R. DeWolf."

By Mr. Daly:

Q. Do you handle the "Every Week," Mr. DeWolf?

A. No, sir.

Q. Why?

A. Well, I did not like their contract. I did not think it was a good thing for me to take on. It was offered to me.

Q. Did you ask the Curtis—did you write the Curtis Company anything about taking it on?

A. No, I don't think I did. I haven't any recollection of ever writing to them about it.

Q. Will you look at this letter? (Handing paper to witness.)

A. Yes, I guess I did.

Q. You did write, didn't you?

A. Yes, and forgot that I had.

Q. You remember now that you wrote about it?

A. Yes, I do.

Q. And that is the letter?

A. That is the letter.

Q. That asked permission about "Every Week" of them?

A. That was at a later time than I had in mind first. When they first offered me their contract some time previous to that, I did not want it.

Q. You did not want it then?

A. No.

Q. But you afterwards asked for it by this letter?

A. I afterwards did; yes.

Q. Did the Curtis Company consent to your taking it on?

Q. Do you recollect whether you got a letter from them in answer to that?

A. If I could see the letter again and read it over——

MR. MILBURN: Mr. Smith called on him, didn't he? We wrote back that Mr. Smith would call on him. Isn't that the answer?

By MR. DALY:

Q. Look at that. (Handing paper to the witness.)

A. Yes, I recall now.

Q. Mr. Smith called on you, did he not?

A. Mr. Smith called on me; yes, sir.

Q. And you did not take it on?

A. No, I did not take it on.

Q. What did Mr. Smith say to you, do you remember? The agent or representative of the Curtis Company?

A. Well, the fact of the matter is—Is that a letter asking to take it on?

Q. Yes.

A. Or asking to hire my trucks to the party that did take it on?

(The witness examines the letter in question.)

A. Mr. Smith told me that he believed it would be good policy for me not to hire my trucks, to the party—the other party.

Q. Then you did not handle it?

A. No, I did not handle it.

Q. Under that, with that understanding?

A. Yes, sir.

Q. Then did you hire your trucks to the other party?

A. No, sir.

MR. DALY: I offer this letter, and the reply.

EXAMINER MOORE: The letter and reply are received in evidence without objection.

(Whereupon the said letters were received in evidence by the Examiner, marked "Commission's Exhibits Nos. 152 and 153," respectively, and the same are in words and figures as follows, to wit):

COMMISSION'S EXHIBIT No. 152.

(On letterhead of): "DEWOLF NEWS CO.
Indianapolis, Ind.

May 15, 1917.

Curtis Publishing Co.,
Mr. M. E. Douglas,
Philadelphia, Pa.

Dear Mr. Douglas:

The Crowell Publishing Co. has just written to me in regard to handling their publications in Indianapolis. Of course I feel it is my first duty to consult you in the matter. If you have no objections it would be fine but if you have would you object to me hiring my trucks to the man who takes the agency for them to make his deliveries?

The situation here is this: The Pictorial Review has appointed an independent agent who has nothing else but they made him believe that they would be able to get him more publications. I have heard indirectly that he is going to give up handling the Pictorial but if he could get these other publications no doubt he would stick and of course this means opposition, something that we want to avoid if possible.

What I have in mind is this: I know a young man here who is night foreman for one of the baking companies and who would like to make a little extra money, but he don't have any equipment to handle this stuff. He has plenty of time to look after it as his working hours are short, and if there would ever come a time that I would

be permitted to handle it, I believe he would turn it over to me.

I wish you would write and let me know just how you feel in this matter as I am at all times anxious to comply with your wishes.

Very truly yours,

H. R. De Wolf."

(Rubber stamped): "Answered
May 18 1917
M. E. D."

"Received
May 17 1917
F. M. B."

---

Commission's Exhibit No. 153.

(Carbon copy.)

"May 18, 1917.

Mr. H. R. DeWolf,
50-52 Kentucky Avenue,
Indianapolis, Indiana.

Dear Mr. DeWolf:

Within the course of a few days our Mr. H. B. Smith will see you concerning a matter referred to in a recent letter from you. He is in Wisconsin now and will be in Indianapolis shortly.

Very truly yours,

The Curtis Publishing Company.

*District Manager.*

Dictated by
MED BHL"

By Mr. Daly:

Q. Now, you were asked to handle the "Literary Digest," were you not?

A. Yes, sir.

Q. Is this a letter that you received with refer-

ence to that, dated March 1, 1917—or that you sent, rather? (Handing paper to the witness.)

A. Yes, sir.

MR. DALY: We offer this letter. (Handing paper to opposing counsel.)

By MR. DALY:

Q. Will you look at a telegram dated February 29, 1917? (Handing paper to the witness.)

A. Yes, sir.

Q. From the Curtis Company—is that the telegram that you received about that?

A. Yes, sir.

MR. DALY: We offer this letter.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 154," and the same is in words and figures as follows, to wit):

COMMISSION'S EXHIBIT No. 154.

(On letterhead of): "DEWOLF NEWS CO.
Indianapolis, Ind.

March 1, 1917.

Curtis Publishing Co.,
Mr. M. E. Douglas,
Philadelphia, Pa.

Dear Sir:

Your letter in regard to me distributing the Literary Digest has just been received and contents carefully noted. I will first say that I appreciate your sanctioning this move very much and I assure you it will not detract in any way my efforts to increase the sale of the Curtis publications. In fact, I think it will give me more time for the Curtis work as I intend to put on a promotion man

who will look after the interests of all publishers that I represent. This is something that I have been doing myself and it has taken a great deal of my time away from other duties. The reason that I have not put a promotion man on before this is that I have felt that I could not afford it.

Again thanking you for this privilege, I remain yours,

Very truly,

H. R. DeWolf."

(Rubber stamps): "Received
Mar 5 1917
F. M. B."

"Answered
Mar 6 1917
M. E. D."

Mr. Daly: And the telegram refusing to sanction—or, giving, rather any conditional approval.

Examiner Moore: The telegram is received in evidence without objection.

(Whereupon said telegram was received in evidence by the Examiner, marked "Commission's Exhibit No. 155," and the same is in the words and figures following, to wit):

Commission's Exhibit No. 155.

(Postal form.) (Carbon copy.)

"Feb. 29, 1917.

H. R. DeWolf,
50 Kentucky Avenue,
Indianapolis, Indiana.

Conditional sanction given in letter following. Await its receipt.

M. E. Douglas.

Collect"

By Mr. Daly:

Q. Will you look at this letter, dated February 6,

1917? (Handing paper to the witness.) What does that letter refer to?

A. That refers to the "Pictorial" agency.

MR. DALY: We offer this letter of refusal, which I did not find until just now.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 156," and the same is in words and figures following, to wit):

COMMISSION'S EXHIBIT No. 156.

(On letterhead of):

"THE CURTIS PUBLISHING COMPANY
Philadelphia

February 6, 1917.

Mr. H. R. DeWolf,
50 Kentucky Avenue,
Indianapolis, Indiana.

Dear Sir:

In reply to your letter dated January 25:

In justice to you, and to avoid any situation which would be embarrassing to both you and us, we feel it our duty to say that if you were to undertake it, we should wish to cancel your arrangements with us.

Our relations have been so very pleasant and satisfactory that we hope to be able to supply and serve you indefinitely hereafter.

Very truly yours,
THE CURTIS PUBLISHING COMPANY.
Wm. J. de Grouchy,
*Assistant Manager Sales Division.*

WJdeG-BHL"

By MR. DALY:

Q. Now, I show you a letter dated February 28, 1917, with reference to the "Literary Digest"——

MR. MILBURN: In New York and Boston, after these exhibits were copied into the record, they turned them back to us for that other action.

MR. DALY: Yes.

MR. MILBURN: Can we have the Chicago exhibits and these here turned back in the same way?

MR. DALY: Oh, yes.

MR. MILBURN: The stenographer was going to hand them over to you, and then will you ship them to us?

MR. SPIESS: Did he turn all these over to you?

MR. WELCH: It was verbal between Mr. Daly and myself and the stenographer, that he was to give all the exhibits to us and we were to put them in our vault and keep them safe.

MR. DALY: With the understanding that if we called on them——

MR. WELCH: We were to be responsible for them.

EXAMINER MOORE: You mean all the exhibits?

MR. DALY: When they were copied in the record, I understand.

MR. SPIESS: A good many of ours we did not get from the Curtis Company at all.

MR. DALY: No.

MR. MILBURN: Those, if we have got them, we will give them to you.

MR. DALY: Of course, the understanding was with reference to the papers you produced.

MR. SPIESS: You have ours.

MR. WELCH: I don't know. Maybe we have yours.

MR. SPIESS: I haven't received any from the Commission.

MR. WELCH: I haven't looked at any of them, except to see that they were exhibits that came in, and I put them in our safe.

MR. SPIESS: Some of them belong to us.

MR. WELCH: Whatever belong to you you can have.

MR. SPIESS: The stenographer is going to send them to me hereafter, and then I am going to send them back to the Curtis Company. I will take mine out first.

MR. WELCH: When I go back I will see what we have got of yours.

MR. DALY: Then, Mr. Stenographer, the understanding is this: All these exhibits are to be turned over to us and we will return the proper exhibits to the other side.

MR. DALY: I offer this letter and telegram.

EXAMINER MOORE: The letter and telegram are received in evidence without objection.

(Whereupon the said papers were received in evidence by the Examiner, marked "Commission's Exhibits Nos. 157 and 158," respectively, and the same are in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 157.

(Carbon copy of letter.)

"February 28, 1917.

Mr. H. R. DeWolf,
50 Kentucky Avenue,
Indianapolis, Indiana.

Dear Mr. DeWolf:

You ask for our sanction that you undertake to wholesale The Literary Digest.

While the idea of your divorcing your efforts

to this extent from our publications arouses no enthusiasm, nevertheless we are not at present opposed to the idea, provided you give to that publisher or his representative no list of names of any retailers whom you now supply with our publications.

Of course, if you were to supply any copies of that periodical to boys as distinguished from news dealers, this conditional sanction would have to be withdrawn.

We advise that you do not make with the other publishers any contract from which you could not withdraw on short notice; for if the arrangement you make with them should eventually weaken your service with our publications or result in unreasonable interference with our plans or policies, we should have to withdraw the sanction given you. At present, however, it looks as if you can, if you will, handle it in such a way as not to result to our disadvantage.

As before stated our disposition is to concede to your individual interest everything we can without sacrificing mutual interests. On this basis we wish you success in your plans.

Very truly yours,

THE CURTIS PUBLISHING COMPANY.

*District Manager.*

Dictated by
MED SM"

---

COMMISSION'S EXHIBIT No. 158.

(Western Union telegram form.)

"59P M 9

M X Indianapolis Ind 1003 A M Feb 28 1917

Curtis Pub Co Cr N E Douglas

Pha Pa

Any objection to my handling Literary Digest. Wire answer.

H. R. DeWolf.
1137A"

(Rubber stamp): "Answered
Feb 28 1917
M. E. D."

"Received
Telegram Desk
Sales Division
Charges Pd
Feb 28 1917"

By Mr. Daly:

Q. How many "Posts" do you handle?

A. At the present time?

Q. Yes.

A. Sixty-eight hundred.

Q. How many "Country Gentleman"?

A. Eight hundred.

Q. How many "Home Journals"?

A. Well, 3800 to 4000.

Q. How many "Home Journals" were you handling when you were asking to take on the "Pictorial Review," do you remember?

A. Well, I don't—I could not say. Practically the same, depending on the time of year. It varies, you know; in the summer the sale goes down some.

Q. Would that be true with reference to the "Post" and the "Country Gentleman"?

A. Yes.

Q. Now, how did you obtain the Curtis magazines from that company?

A. From the Curtis?

Q. How did you pay for them?

A. I paid in advance; two weeks in advance I sent my order and a check covering it.

Q. That followed the terms of the contract, did it not?

A. Yes, sir.

Q. Now, what percentage of your business is Curtis business?

A. Well, that is pretty hard to say right now.

Q. Approximately?

A. We have been taking on new business.

Q. What was it at the time that you did not take on the "Pictorial Review"? Can you give me some estimate?

A. Well, you mean of the magazine business alone, or the whole business?

Q. Well, yes; the whole, in estimating it.

A. Well, I would say fifteen per cent.

Q. Well, now, what do you mean by that? Fifteen per cent. of the——

A. The whole business.

Q. The whole business—was Curtis. Now, on the magazine business, what percentage?

A. Well, I would say at the time the "Pictorial Review" offered me the agency—you mean?

Q. Yes.

A. Thirty per cent.

MR. MILBURN: How much, thirty, did you say?

THE WITNESS: Thirty, yes; that is approximate.

By MR. DALY:

Q. You deposited cash security, did you?

A. Yes, sir.

Q. How much did you deposit?

A. In the beginning five hundred dollars, on this contract.

Q. And is that the amount that you have on deposit now?

A. No.

Q. What have you on deposit now?

A. $1650.

Q. Are you still working under this contract?

A. No, sir.

Q. What had you on deposit when you changed the form of the contract, when you signed the new contract?

A. Five hundred dollars.

Q. That was the sum that you began with, was it?

A. Yes, sir.

Q. How many wholesalers are there in your city —retailers, I should say.

A. Approximately 225.

Q. How many of them do you serve?

A. All of them.

Q. And how do you reach them? What equipment have you?

A. Automobile trucks.

Q. Now, at the time that you signed the new contract, about how many of the Curtis publications were you selling—or buying?

A. Well, about the same number as I gave you a few minutes ago: 6800 "Posts," or possibly at that time not so many; about 6600 "Posts," I guess, and about 600 "Country Gentleman," and about 4000 "Journals."

MR. DALY: I think that is all.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. What magazines do you handle other than the Curtis magazines, Mr. DeWolf?

A. The "Collier's," "Munsey's," "Hearst's," "Jim Jam Gems," "Literary Digest," the Warner publications, and "Motion Picture Magazine."

Q. What?

A. "Motion Picture Magazine."

Q. And of that entire magazine business you think

that the Curtis business is approximately thirty per cent., is that correct?

A. Well, I don't hardly know as it is thirty per cent. You see, some of the stuff we are just taking on now, and I really don't—I said thirty per cent. at the time the "Pictorial' was offered to me.

Q. How are the "Pictorial" and "Every Week" distributed in Indianapolis now?

A. Why, "Every Week" is distributed by the Indiana News Company there, which is a branch of the American News Company, and by the circulation department of the "Indianapolis News" they distribute to their news sub-stations and to the carrier boys.

Q. And the other, how about it?

A. The "Pictorial Review"?

Q. Yes.

A. It is distributed by a fellow by the name of Voyles, Harry Voyles.

Q. Do you distribute those magazines, the Curtis magazines, through an organization of boys?

A. Yes, sir.

Q. About how many boys have you?

A. How many boys?

Q. Yes.

A. Why, about 125.

Q. And did you report to them every week on that number?

A. Yes.

Q. And in getting these boys, did the Curtis Company aid you in getting them and keeping them?

A. Very, very much.

Q. To a state of efficiency?

A. Yes, sir.

MR. MILBURN: I guess that is all.

MR. DALY: Are you through, Mr. Milburn?

MR. MILBURN: Yes.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. Now, this man that distributes the "Pictorial," can you tell me just how he does that, if you know?

A. Why, yes, I know. He delivers them with an automobile.

Q. Does he have other magazines as well?

A. No.

Q. He handles "Pictorial Review" alone, doesn't he?

A. He handles it alone.

Q. You bought your business, didn't you, when you went into it?

A. Yes, sir.

Q. It was an established business that you took hold of?

A. Yes, sir.

Q. You say you reported these boys to the Curtis Company?

A. Yes, sir.

Q. They all handled the Curtis publications, did they?

A. Yes, sir.

Q. Did they handle anything else, newspapers, or other magazines?

A. Well, some.

Q. Any of them?

A. Some of them did, yes.

Q. Can you give me any estimate of about how many there were that did that?

A. That handles newspapers, too?

Q. Newspapers.

A. And other publications?

Q. Yes.

A. I would say twenty-five or thirty.

Q. You mean twenty-five or thirty handled newspapers?

A. Yes.

Q. And other magazines?

A. Yes.

Q. Or newspapers alone?

A. No, handled newspapers and other magazines along with the Curtis publications, I would say that we had about 100 boys that handled Curtis publications exclusively.

Q. But in making your reports you would put in all those boys, would you?

A. Yes, sir.

Q. Whether they handled newspapers and magazines?

A. Yes, sir.

Q. Or whether they handled them alone?

A. Yes, sir.

MR. DALY: That is all.

MR. MILBURN: That is all.

(Witness excused.)

---

HENRY SOLOMON, called as a witness on behalf of the Commission, having been first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Give your full name and address, Mr. Solomon.

A. Henry Solomon, 1404 West Third Street, Cleveland, Ohio.

Q. What business are you engaged in?

A. Distributing magazines and newspapers.

Q. How long have you been in that business?

A. Two years and four months.

Q. What equipment have you for the distribution of magazines and newspapers?

A. Automobile service.

Q. How many retailers do you serve?

A. Close to five hundred.

Q. And what other wholesalers are there in your city?

A. A branch of the American News Company.

Q. Any other besides that?

A. At the present time, one.

Q. What is that?

A. A man by the name of Asper, handling "Pictorial Review."

Q. Does he handle anything else?

A. He is in the expressing business. He handles no other magazines.

Q. He does not handle any other magazines, then?

A. No, sir.

Q. Now, will you look at a letter dated February 21, 1917, written by The Curtis Publishing Company to you with reference to the sale of the "Pictorial Review" through your business? (Handing paper to the witness.)

A. It is possible that we received that letter.

Q. You received that letter——

MR. DALY: We offer this letter, Mr. Milburn; we offer that letter in evidence.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 159," and the same is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 159

(Carbon copy of letter.) "February 21, 1917.

Mr. Henry Solomon,

1111 Walnut Avenue

Cleveland, Ohio

Dear Mr. Solomon:

In view of your loyalty to us and also because of the sanction given last month, we are not now adverse to your continuing to wholesale THE PICTORIAL REVIEW to newsdealers only.

I see no present reason to think we shall later need to re-consider the above sanction unless the other publisher should use our sanction to your arrangement with him as a means of stirring up dissatisfaction among other District Agents from whom such sanction has been withheld.

If I were in your place and desired to advance the mutual interests of The Curtis Publishing Company and of myself, I should be very careful not to give the other publisher the names and addresses of any local retailers supplied by my delivery service, and I should take pains not to bind myself to any contract with the other publisher that would prevent me from terminating the present arrangement with him on thirty days' notice. This last of course is merely suggestive.

With kindest personal regards,

Very truly yours

THE CURTIS PUBLISHING COMPANY

*District Manager.*

Dictated by
MED BHL"

By MR. DALY:

Q. Will you look at a letter dated January 26, 1917, from The Curtis Publishing Company to you? (Handing paper to witness.)

A. Yes, sir.

Q. You received that, didn't you?

A. Yes, sir.

Q. In which you first got permission to handle the "Pictorial Review"?

A. Yes, sir.

Q. Now, you handled the "Pictorial Review" before you took on the "Pictorial Review," didn't you, at that time?

A. Yes, sir.

Q. And how many copies were you selling—did you sell?

A. Approximately 3,000.

Q. Now, will you look at a letter dated the 23rd of January, 1917, in which you wrote to Mr. M. E. Douglas of The Curtis Publishing Company with reference to the "Pictorial Review" matter? (Handing paper to the witness.)

A. Yes, sir.

Q. You wrote that, didn't you?

A. Yes, sir.

Q. Also look at a letter dated January 26, 1917, from the Curtis Publishing Company to you. (Handing paper to witness.)

A. Yes, sir.

MR. DALY: We offer this letter.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 160," and the same is in the words and figures as follows, to wit):

COMMISSION'S EXHIBIT No. 160

(On letterhead of): "Solomon News Co.
Wholesale Newspapers, Magazines
1111 Walnut Ave.
Cleveland, Ohio 1/23/17.

Mr. M. E. Douglas,
Mgr. Sales Division,
Curtis Publishing Co.,
Philadelphia, Pa.

Dear Mr. Douglas

Under date of Jan 19th we received a letter from the "Pictorial Review" advising us that they are ready to supply independents with Pictorial Review to be sold to their pattern agencies and boys, with no intent on their part to let us crowd in on business that is now being served through the American News Co., and its branches. Mr. Holl, being in the office at the time that I received this letter, I asked his advice about same and he advised that I write to you on the subject. If there is no objection I would be pleased to hear from you, as I do not believe that the handling of this publication by us will in any way interfere with the sale of the Ladies Home Journal.

Sincerely yours,
HENRY SOLOMON & Co.,
By H. Solomon."

(Rubber stamps:) "Referred to
Jan 25 1917
F. M. B."

"Answered
Jan 25 1917
M. E. D."

By MR. DALY:

Q. You got that, didn't you? (Handing paper to witness.)

A. I think so, yes.

MR. MILBURN: That I have never seen before, but that is all right.

MR. DALY: Now, we offer this letter dated January 26, 1917.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 161," and the same is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 161

(On letterhead of): "THE CURTIS PUBLISHING COMPANY

Philadelphia

January 26, 1917

Mr. Henry Solomon,
1111 Walnut Avenue
Cleveland, Ohio

Dear Sir:

From your letter dated January 23 we understand that you wish to accept the local distributing agency for the Pictorial Review. We have no objections whatever to your wholesaling this publication provided you restrict your deliveries to newsdealers; that is, provided you make no effort to induce P-J-G boys who were not selling the Pictorial Review when you took the agency, to buy from and sell for you.

With the understanding that you will not permit these new arrangements to interfere with plans for increasing the output of our own periodicals, we are satisfied.

Very truly yours
THE CURTIS PUBLISHING COMPANY
C. L. Grosjean
*District Manager*

Dictated by
M. E. Douglas
MED BHL"

By Mr. Daly:

Q. Now will you look at this letter, dated February 13, 1917, addressed to you by the Curtis Company, with reference to the handling of the "Pictorial Review," and the reply on the back? That is yours, is it? (Handing paper to the witness.)

A. Yes, sir.

Q. And you received this letter?

A. Yes, sir.

Mr. Daly: We offer this in evidence.

(Whereupon the said document was received in evidence by the Examiner, marked "Commission's Exhibit No. 162," and the same is in the words and figures as follows, to wit):

Commission's Exhibit No. 162

(Carbon copy.) "Feb. 13, 1917

M E D

Mr. Henry Solomon
1111 Walnut Avenue
Cleveland, Ohio

Dear Sir:—

In January, 1917, at your request made according to Clause 13 of your contract with us, we sanctioned your taking a wholesale agency for The Pictorial Review, with the understanding that you would limit *to newsdealers only*, your deliveries of that periodical.

Later, similar sanction was given to three or four other District Agents who made the same request.

Recently our attention has been called to efforts, inconsistent with the condition upon which we sanctioned the arrangement, made or planned to induce P-J-G boys to sell The Pictorial Review.

Are You Now Wholesaling
The Pictorial Review to Boys?

A proper regard for our mutual interests now requires that we ascertain whether or not you are supplying The Pictorial Review to boys. We shall appreciate an early reply with full particulars.

This is a general letter to each District Agent at whose request we sanctioned a Pictorial Review arrangement like that made by you.

Very truly yours

THE CURTIS PUBLISHING COMPANY

*District Manager*

Dictated by
MED HG"

(On other side:) "REPLY SHEET

Please write your reply below for a prompt adjustment of the matter referred to. Do not return the *original* letter. Retain the original for your future reference."

(Pen and ink reply:) "Cleveland 2/15/17

Mr. M. E. Douglas,
Philadelphia, Pa.

Dear Sir: Have done no work among P. J. G. boys. Realize that you are entitled to this end exclusively and will work accordingly.

Sincerely yours,

H. Solomon."

(Rubber stamps:) "Daily Mail
Feb. 17 1917
Scatter"

"Received
Feb. 17, 1917
F. M. B."

"Feb 17, 1917
Daily Mail M"

"Answered
Feb 19 1917
M. E. D."

By MR. DALY:

Q. Will you look at a telegram dated April 24, 1917, from you to Mr. Douglas? You sent that? (Handing paper to witness.)

A. I remember that, yes.

MR. DALY: We offer this telegram with reference to the "Pictorial Review" matter.

MR. MILBURN: No objection.

EXAMINER MOORE: The telegram is received in evidence without objection.

(Whereupon the said telegram was received in evidence by the Examiner, marked "Commission's Exhibit No. 163," and the same is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 163

(Western Union telegram form.)

"133PM 33 Collect

GF Cleveland Ohio 311PM April 24, 1917
M E Douglas

Care Curtis Pub Co Pha Pa

Mackinnon Pictorial Review desires order for June number gave him no satisfaction He now suggests that I again ask your permission Kindly advise if any new arrangements have developed affecting his publications.

J. Solomon
344PM"

(Rubber stamps:) "Answered
Apr 24 1917
M. E. D."

"Received
Telegram Desk
Sales Division
Charges $1.06
Apr 24 1917"

By MR. DALY:

Q. I show you this letter dated April 24, 1917, from the Curtis Company to you. (Handing paper to the witness.)

A. Yes, sir.

Q. You received that?

A. Yes, sir.

MR. DALY: We offer this letter, which goes with the first one.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 164," and the same is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 164

(Carbon copy.) "Registered

February 21, 1917

Mr. H. Solomon
c/o H. Solomon & Company
1111 Walnut Street
Cleveland, Ohio

Dear Mr. Solomon:—

Since our letter dated February 21 was written, circumstances have changed to the extent that we are now obliged to state that we now desire our Cleveland Agency to be in the hands of a District Agent not also acting for the Pictorial Review.

The other publisher or his representatives, are using the sanction given you as a reason for influencing other District Agents contrary to their agreement with us. This is a source of dissatisfaction to us. To avoid the appearance of discrimination against others, our policy must have unity: must be applied uniformly.

Under these circumstances will you kindly tell us whether you prefer to continue with the Pictorial Review and have us change our agency, or whether you prefer to continue with us and discontinue the Pictorial Agency in case you have accepted said agency?

You know that my personal disposition has been to concede to the District Agent's individual interests, everything we can without sacrificing mutual interests and under circumstances such as have arisen, there is no alternative other than the one stated above. For example, Washington telephoned us this afternoon stating that the Pictorial Review representative tells him that you have taken the Pictorial Agency and therefore, of course, he, Smith, can take it.

You of course understand that there is a limit to the number of periodicals seeking circulation among readers of the same class which a District Agent can handle without taking on the limitations of a branch of the news company. We have District Agents because we need representatives free from such limitations. This is axiomatic with us in the Sales Division.

Very truly yours

THE CURTIS PUBLISHING COMPANY

*District Manager*

Dictated by
MED SM"

(Rubber stamped:) "Refer to Mr. Douglas"

MR. DALY: We offer this letter.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 165," and the same is in the words and figures following, to wit:)

COMMISSION'S EXHIBIT No. 165

(Carbon copy.) "April 24, 1917

Mr. Henry Solomon
1111 Walnut Avenue
Cleveland, Ohio

Dear Mr. Solomon:

Your inquiry by telegram dated April 24th is being referred to our Superintendent of Agencies for your state. As soon as he can get to Cleveland he will discuss the matter with you.

Very truly yours

THE CURTIS PUBLISHING COMPANY

*District Manager*

MED BHL
Dictated by"
(Penciled memo.:) "Copy to Hall"

By MR. DALY:

Q. Now, will you look at this telegram dated February 23, 1917—I presume it is from you—to Mr. Mackinnon? (Handing telegram to the witness.)

A. My name is attached to it. I must have sent it.

Q. You must have sent it. In which you state they object to your handling "Pictorial Review?"

A. Yes.

MR. DALY: We offer this telegram.

EXAMINER MOORE: The telegram is received in evidence without objection.

(Whereupon the said telegram was received in evidence by the Examiner, marked "Commission's Exhibit No. 166," and the same is in the words and figures following, to wit:)

COMMISSION'S EXHIBIT No. 166

(Western Union telegram form.)

"38 1NY KR 13 Collect

GF Cleveland Ohio 1258P Feb 23

B A Mackinnon

Care Picture Review Pub Co

New York

Curtis has made ultimate either lose their agency or stop handling Reviews

H Solomon

132P"

By MR. DALY:

Q. Now, after this, you gave up the—Are you still handling the "Pictorial Review"?

A. I handled "Pictorial Review" up to the December issue.

Q. And you have quit, is that correct?

A. Since December 10; yes, sir.

Q. Now, you are under contract with them, of course?

A. Yes, sir.

Q. Have you that contract with you?

A. Yes, sir.

Q. Is that the contract that you have with the company? (Handing paper to the witness.)

A. Yes, sir.

Q. Will you look at Section 13?

A. Yes, sir.

Q. Is that the section in question in this matter?

A. I think so.

MR. SPIESS: Marked JDA-3.

MR. DALY: JDA-3.

By MR. DALY:

Q. Now, that contract is still in force, is it not?

A. Yes, sir.

Q. Under that how many "Posts" do you handle?

A. The contract calls for the sale of 7000.

Q. How many do you handle?

A. Fifteen thousand was my last order.

Q. Your last order was 15,000?

A. Yes, sir.

Q. What was your order December last?

A. Approximately 12,000 or 13,000.

Q. Now, how many "Country Gentleman"?

A. My last order is 2000.

Q. How many "Ladies Home Journal"?

A. Six thousand five hundred.

Q. And how many "Pictorial Reviews" were you handling in December when you quit?

A. The order was 3600.

Q. And how many did you handle when you took it on?

A. The same number.

Q. And you have handled that number all of the period that you were working for them?

A. Except they increased the order without instructions to 4,300.

Q. Now, when you order the Curtis magazine from the Curtis Company, what do you do in order to get them? How do you pay for them?

A. Forward a check once a week for two weeks in advance.

Q. You sent the check with the order, is that correct?

A. Yes, sir.

Q. And has that been your practice all of the time that you have been under this contract?

A. Yes, sir.

Q. Did you deposit a security bond?

A. Yes, sir.

Q. How much?

A. One thousand dollars.

Q. And when did you do that? At the beginning of the contract?

A. At the beginning of the contract.

Q. And is that amount still posted now?

A. Still posted, drawing five per cent. interest.

Q. Yes. What boys have you?

A. About two hundred.

Q. How many of them are exclusively Curtis boys?

A. Very few. Ten per cent.

Q. What do the others handle?

A. Newspapers.

Q. Handle any magazines?

A. None at all.

Q. You handle other magazines, do you?

A. Yes, sir.

Q. Do you sell "Every Week"?

A. No, sir.

Q. Why?

A. Well, I gave it up.

Q. When?

A. I handled it for a period of eight or ten weeks under a salary. When the salary was cut off, I cut off "Every Week."

Q. Will you look at this letter, dated April 28, 1916, with reference to the wholesaling of a certain periodical—written to you by The Curtis Publishing Company? (Handing paper to the witness.)

A. Yes, sir.

Q. You received that, didn't you?

A. I did.

MR. DALY: We offer this letter.

MR. MILBURN: That is all right.

By MR. DALY:

Q. Will you look at your reply, dated May 2, 1916, about the same matter? (Handing paper to the witness.)

A. Yes, sir.

MR. MILBURN: You understand, Mr. Daly, that pencil correction does not go in.

MR. DALY: No. Mr. Stenographer, strike out that.

EXAMINER MOORE: The letter is received in evidence by the Examiner without objection.

(Whereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 167," and the same is in the words and figures following, to wit:)

COMMISSION'S EXHIBIT No. 167

(Carbon copy.) "April 28, 1916

Mr. Henry Solomon

1111 Walnut Avenue

Cleveland, Ohio

Dear Mr. Solomon:

From a source (Penciled interpolation "Phillips") which we have heretofore found reliable, we understand that you have made or contemplate making an arrangement to wholesale a certain periodical or magazine contrary to a provision in your agreement with us.

It is difficult for us to believe that you made such an arrangement or that you would make such an arrangement.

Nevertheless in justice to you, and to avoid any situation which would be embarrassing to both you and us, we feel it our duty to say that if you were to undertake it, we should wish to cancel your arrangements with us.

Our relations have been so very pleasant and satisfactory that we hope to be able to supply and

serve you indefinitely hereafter. Is it your desire to have us do so? —or have we been misinformed?

Very truly yours

THE CURTIS PUBLISHING COMPANY

*Manager Sales Division*

MED BHL"

MR. DALY: We offer this letter.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 168," and the same is in the words and figures following, to wit:)

COMMISSION'S EXHIBIT No. 168

(On letterhead of): "SOLOMON NEWS CO.

Cleveland, Ohio, May 2nd, 1916

Mr. M. E. Douglas,

Manager Sales Division,

The Curtis Publishing Co.,

Philadelphia, Pa.

My dear Mr. Douglas:

Before answering your letter of April 28th thought over the matter and do not understand what certain periodical you have in mind. I am placing out, at the present time, five weekly publications, one of them a local affair. Outside of the Curtis magazines, none of these publications cater to the boy circulation. In every instance they are strictly news stand publications. I know that other distributors handle these publications and do not see why there would be any objection on your part if I took up the publications. Will you kindly advise just what magazine you object to? I feel certain that we can agree upon the subject and there

will be no friction on my part and I certainly feel that our future relations will be as pleasant as in the past.

Sincerely yours,
HENRY SOLOMON & Co.,
By H. Solomon"

(Rubber stamps:) "Answered
May 3 1916
M. E. D."
"Received
May 4 1916
E. F. K."

By MR. DALY:

Q. Look at this letter, dated May 3, 1916, from the same company to you, with reference to "Every Week." (Handing paper to the witness.)

A. Yes, sir.

MR. DALY: We offer that.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon the said letter was received in evidence by the Evaminer, marked "Commission's Exhibit No. 169," and the same is in the words and figures following, to wit:)

COMMISSION'S EXHIBIT No. 169.

(Carbon copy.) "May 3, 1916.

Mr. Henry Solomon,
The Solomon News Company,
1111 Walnut Avenue,
Cleveland, Ohio.

Dear Mr. Solomon:

With your returns of covers of our publications we are beginning to find covers of Every Week.

For example, with the package opened May

3, we found two covers of Every Week, dated April 17.

In this connection please see our letter, dated April 28. Every Week is the periodical therein referred to.

Very truly yours,

THE CURTIS PUBLISHING COMPANY.

*Manager Sales Division.*

MED BHL"

(Rubber stamps): "Refer to Mr. Douglas

Noted M.E.D."

By MR. DALY:

Q. And also a telegram, dated May 4, 1916; you received that, didn't you? (Handing paper to the witness.)

A. Yes, sir.

MR. DALY: We offer that in evidence.

EXAMINER MOORE: The telegram is received in evidence without objection.

(Whereupon the said telegram was received in evidence by the Examiner, marked "Commission's Exhibit No. 170," and the same is in the words and figures following, to wit:)

COMMISSION'S EXHIBIT No. 170.

(Postal Telegraph form.)

"May 4, 1916.

Henry Solomon,

1111 Walnut Avenue,

Cleveland, Ohio.

Our letter April twenty-eighth Every Week only.

M. E. Douglas."

By Mr. Daly:

Q. Will you look at this letter, dated May 26, 1916, with reference to the circulation of the "Every Week"? You wrote that, didn't you, to the company? (Handing paper to the witness.)

A. I did.

Q. Look at this letter, dated June 2, 1916, with reference to the same matter, bearing upon the same subject. (Handing paper to the witness.)

A. Yes, sir.

Mr. Daly: We offer this letter.

Examiner Moore: The letter is received in evidence without objection.

(Whereupon the said letter was received in evidence by the Examiner, marked "Commissioner's Exhibit No. 171," and the same is in the words and figures following, to wit:)

Commissioner's Exhibit No. 171.

(On letterhead of):

"Solomon News Co.

Cleveland, Ohio, May 26, 1916.

Mr. M. E. Douglas,
Mgr. Sales Division,
Curtis Publishing Co.,
Philadelphia, Pa.

Dear Mr. Douglas:

Covering point in your letter of April 28th, concerning Every Week beg to advise that we have handled their last issue this week. Trust that this is in accordance with your wishes on this subject.

Every Week will be put on the street through one of the newspaper hustlers. What effect this will have on our street sales remains to be seen. I am sorry that you have made this re-

quest, as I believe if I handled it the situation would be better for all concerned.

Sincerely yours,

HENRY SOLOMON & Co.
By H. Solomon."

(Rubber stamped:) "ANSWERED
MAY 31 1916
M.E.D."

"RECEIVED
MAY 29 1916
E.F.K."

By MR. DALY:

Q. You got that? (Indicating letter of June 2, 1916.)

A. I suppose I did.

MR. DALY: We offer that.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 172," and the same is in the words and figures following, to wit:)

COMMISSION'S EXHIBIT No. 172.

((Carbon copy.) "June 2, 1916.

Mr. Henry Solomon,
1111 Walnut Avenue,
Cleveland, Ohio.

Dear Mr. Solomon:

For your kind letter, dated May 26, announcing the action taken with reference to EVERY WEEK we thank you most sincerely.

Very truly yours,

THE CURTIS PUBLISHING COMPANY.
MED BHL *Manager Sales Division.*"

By Mr. Daly:

Q. Now, you do not handle it any more, do you?

A. No, sir.

Q. Now, what have you done towards training or coaching this number of boys of the Curtis company?

A. Whenever boys would call at the office I would give them a certain talk.

Q. What talk?

A. Well, pointing out the merits of the magazine and how to proceed to sell them; at the same time telling them the margin of profits that was in each magazine against what the margin of profit was on the newspapers that they handled.

Q. How often did you do that?

A. As often as the boys would call, and as often as the time would permit.

Q. You mean by that, would they come in together and you would do that to all, or would you talk separately to them?

A. Why, separately as a rule.

Q. How much money did you receive for doing that work? I do not mean bonuses for increasing sales, but for teaching boys how to sell magazines.

A. There was actually no money paid me for that promotion work.

Q. Now, did you coach all of your boys in the same way or not?

A. No.

Q. Didn't you say anything to the newspaper boys about how to sell?

A. Oh, yes, yes.

Q. Then you did, didn't you?

A. As many boys as would come in—we have a system over there that we don't come in contact with all the boys.

Q. But some of the boys would come in and you would talk to them?

A. Yes, sir.

Q. Along that same line, wouldn't you?

A. Yes, sir.

Q. Now, what magazines did you handle when you began business?

A. The Hearst organization first approached me and asked me to go on to Cleveland to size up the situation. I went to Cleveland and sized up the situation and found the conditions, and then took up the matter with the Curtis Publishing Company, asking them if the same condition that I found in Cleveland was identical with their publication. I got a reply stating that if the Hearst people would turn over their publications to me they themselves would act accordingly.

Q. And you took them both at the same time, is that the idea?

A. Both at the same time, in this way: I had the understanding that I would have the privilege of taking over the Curtis publications after they had given the agent the usual thirty-day notice. I took over the Hearst organization publications in August—well, the first one was August, the first week's magazine, the end of August, 1916, or 1915, 1916—1915, I believe. Well, my contract will show that.

MR. SPIESS: 1915.

THE WITNESS: 1915.

MR. WELCH: 1915.

THE WITNESS: And so I took over all the Curtis publications there on September 30, practically a month later.

MR. SPIESS: September what?

THE WITNESS: September 30; the issue dated October 2.

MR. SPIESS: Yes.

By Mr. Daly:

Q. About a month later. And you handled newspapers from that time until now, too, didn't you?

A. I took over the Chicago and Detroit newspapers.

Q. Yes. Now, you took on the "Pictorial Review" about when?

A. About February, 1916.

Q. Now, about how many of the Curtis publications did you sell—were you selling, at that time?

A. Well, I am not just exactly sure.

Q. Take February, for instance; the approximate number of each?

A. My drawing of "Posts" was between 12,000 and 13,000.

Q. Now, in March, how did those publications run?

A. I have had a gradual increase.

Q. From that time until now?

A. Yes, sir.

Q. Up until December?

A. Yes, sir.

Q. When you stopped handling the "Review"?

A. Yes, sir; except during the summer months, there is the usual slump.

Q. About the circulation of "The Ladies Home Journal," was that true, too?

A. With this exception, if I remember right, the Curtis people at times would have a proposition on among Scout boys or Y. M. C. A. boys—they would have a man in the city doing special work on that to increase "The Ladies Home Journal" circulation. That would not be a stable proposition.

Q. Well, is it or not a stable proposition?

A. There has been a little increase.

Q. There was very little increase?

A. Very little increase on that.

Q. Not a decrease, was there?

A. No decrease.

MR. DALY: No. That is all.

MR. MILBURN: In the movements initiated by the Curtis——

MR. DALY: Oh, yes, one more question, Mr. Milburn, on the percentage of business that I would like to ask:

By MR. DALY:

Q. What percentage of your business is Curtis?

A. Well, roughly speaking, anywhere from 35 to 40 per cent. is Curtis business.

Q. That is, of your whole business?

A. Of the whole business.

Q. Or the magazine business?

A. Of the entire business.

Q. And what percentage of it is made up of other magazines?

A. The balance.

Q. Don't you sell newspapers?

A. Very few. My drawing on the Chicago papers is less than two hundred copies a day.

MR. DALY: Yes. All right.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. In these movements that you have said the Curtis company carried on in Cleveland among the Scout boys and Y. M. C. A. boys, you have co-operated with the Curtis Company, have you not?

A. Yes, sir.

Q. To increase the sales of the papers?

A. Yes, sir.

Q. And you are familiar with the Curtis League of Boys, are you not?

A. I am only from the standpoint of knowing what it is. We have not any Curtis League in Cleveland.

Q. Yes. Do you know Mr. Beeching?

A. Yes, sir.

Q. He is connected with the Curtis Company, is he not?

A. He was.

Q. And what work did you do with him, if any, or what work did he do to aid you, if anything?

A. He put his entire time in promoting the sale of "The Ladies Home Journal," including a period of about three months.

Q. In Cleveland?

A. Yes, sir.

Q. When was that?

A. Well, last summer.

Q. Now, Mr. Solomon, in addition to the profit you make under this contract, have you an additional agreement?

A. I have.

Q. For increases that you get over and above a certain quota?

A. Yes, sir.

Q. What is that?

A. I think that is in the evidence there, a supplementary agreement that I attached to the original. That is a drawing account of eight-fifty a week, a bonus of 25 cents on every hundred copies that I sell over 6000 "Posts," 600 "Country Gentleman," and 4000 "Ladies Home Journal."

Q. And you have regularly exceeded those quota numbers, have you not?

A. Every—Right from the beginning.

Q. And about how much extra compensation have you averaged per month under the subsidiary agreement?

MR. MILBURN: Have you got it there, Mr. Spiess? (The paper was produced.)

THE WITNESS: Oh, in the neighborhood of a hundred dollars a month.

MR. SPIESS: No, I haven't got the total.

MR. WELCH: He said he had a subsidiary agreement attached to the contract.

MR. MILBURN: Oh!

THE WITNESS: I brought that along.

MR. SPIESS: You mean a letter?

THE WITNESS: It is in letter form.

MR. SPIESS: That is dated February 15, 1916, I think. (Producing a paper.)

By MR. MILBURN:

Q. I show you a letter, dated February 12, 1916, from The Curtis Publishing Company, addressed to you, and ask if that contains the subsidiary agreement to which you referred in your testimony?

A. Yes, sir.

MR. WELCH: That has already been offered, has it?

MR. MILBURN: No.

MR. DALY: No, that was not offered.

MR. MILBURN: I offer that it evidence.

EXAMINER MOORE: The letter may be received in evidence without objection.

(Whereupon the said letter was received in evidence by the Examiner, marked "Respondents Exhibit No. 1, Columbus, Ohio," and the same is in words and figures as follows, to wit:)

(On letterhead of):

"THE CURTIS PUBLISHING COMPANY.
Philadelphia

February 12, 1916

Messers. Henry Solomon & Company
1111 Walnut Avenue
Cleveland, Ohio

Gentlemen:—

Mr. Holl is now at the Home Office and has submitted for our consideration a complete report

on the situation at Cleveland. This we have considered in connection with your letter of January 14.

You have made the point that your sales of THE SATURDAY EVENING POST are some 3000 copies more and that your sales of THE HOME JOURNAL are some 2000 copies more than were the sales in Cleveland at the time you took over the agency. We grant this to be the case, but the only fair comparison would be this year's sales against last.

During the month of December, 1914, our POST sales in Cleveland averaged 10,676. During the month of December, 1915, 10,607. Your sales, therefore, were sixty-eight copies less than were the sales last year. A similar comparison for the month of January shows 839 copies in your favor. It must be borne in mind, however, that over 600 copies are being sold by Boy Scouts.

HOME JOURNAL sales in Cleveland this year are roughly 1000 copies ahead of last year. As you know, however, this is only proportionate to the national increase on the monthly publication.

You have already enjoyed certain advantages that were not enjoyed by your predecessor. For instance, we allowed you $5.00 per week for three months for a down-town man. We also have had a Scout man working in Cleveland, who, as stated in the first part of this letter, has secured for you some 600 copies circulation on THE SATURDAY EVENING POST, not to mention 228 on THE HOME JOURNAL and over seventy on THE COUNTRY GENTLEMAN.

We grant that Mr. Baker's delivery was inadequate—that your service far surpasses his. On the other hand, Mr. Baker's sales reports were more regular. It is suggested that you look over

the attached sheet. Opposite the name of each Branch Station Agent we have listed the reports that are delinquent. Each date represents a report that should have been sent us, but was not. A great many letters have been written you on the subject of satisfactory sales reports, but the result has been disappointing.

With the understanding that after March 1 no rebate will be allowed for copies supplied Branch Station Agents, we are willing to make you the following special bonus offer:

A Special Bonus Offer

With the understanding that the payment of bonus will be dependent upon (1) satisfactory sales reports—complete, on time and fully itemized; (2) the maintenance of satisfactory delivery service to all points; (3) Post returns be kept within ten per cent. of drawing, and (4) that this offer may be withdrawn at any time upon thirty days' notice from the Publishers, we agree to pay the following:

For maintaining a net sale of at least 7000 copies of The Saturday Evening Post, 4000 of The Home Journal and 600 of The Country Gentleman a weekly payment of $8.50 will be made.

For each 100 copy increase—any publication—a payment of twenty-five cents will be made.

Failure to maintain the bonus quota requirements of any one publication will nullify the offer for the issues involved.

It is, of course, mutually understood that your acceptance of this offer will not alter or modify the terms of your District Agency agreement dated August 28, 1915, except as indicated in this letter.

In view of the fact that you secured a valuable agency without payment, of the assistance we have already given you and of the circulation possibilities, we feel that the above outlined offer will meet all requirements. Should it not—should you be unable to see your way clear to accept our proposition—we will be compelled to consider a change in the management of the Cleveland agency.

Will you notify us, please, of your acceptance or rejection of this offer?

Very truly yours

THE CURTIS PUBLISHING COMPANY.

H. S. Getz (?)

HSG FG *District Manager."*

By MR. MILBURN:

Q. Did you bring a file of papers?

A. No, sir. I moved here last October, and practically destroyed everything I had.

MR. SPIESS: I haven't any more. That was all I could find, that and the telegram, and this thing. (Indicating.)

By MR. MILBURN:

Q. You said that you had about 200 boys, Mr. Solomon?

A. Yes, sir.

Q. And you report those boys to the Curtis Company, and the sales on all of them?

A. Yes, sir.

Q. And it is among these boys that the activities of the Curtis agents have been expended?

A. To some extent; yes, sir.

Q. Did they help you secure them in the first place?

A. When I went to Cleveland they had a list that they turned over to me containing boys' names, as well as news stands, or news dealers.

Q. And what did you mean?—you said there was an increase in the order for "Pictorial" without instructions. I did not understand that.

A. They were going to do some advertising, I was advised, and they would increase my order, and it was up to me to put them out.

Q. They increased the number of copies and you did not increase the order, is that correct?

A. That is the idea.

EXAMINER MOORE: What do you mean by "put them out"?

THE WITNESS: Distribute them among stores.

MR DALY: What was that question?

EXAMINER MOORE: Free?

THE WITNESS: Charge them wholesale price.

(The record was read.)

MR. DALY: No, the question before that.

(The record was further read.)

By MR. MILBURN:

Q. Well, is there a news company branch in Cleveland?

A. Cleveland News Company.

Q. That is a branch of the American News Company?

A. A branch of the American News Company; yes, sir.

MR. MILBURN: That is all.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. Just another question about these bonuses: You get them right along, don't you? Under this contract?

A. Not at the start, no.

Q. When did you begin to receive them? At the time that contract was made?

A. Yes, sir, about March.

Q. 1916?

A. Yes.

Q. And from that time on you got them?

A. I haven't fallen down.

Q. Under that contract?

A. Yes, sir.

Q. And how many retailers are there in Cleveland that you serve?

A. I would say 500.

Q. You cover them all, do you?

A. Yes, sir.

RE-CROSS-EXAMINATION.

By MR. MILBURN:

Q. By "cover them all" you don't mean you cover them all exclusively; they deal with other wholesalers, too, do they not?

A. Yes, sir.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. Well, what other wholesalers do they deal with?

A. The Cleveland News Company, and the newly appointed agent of the "Pictorial Review."

Q. And the Cleveland News Company is what?

A. A branch of the American News Company.

Q. Do you know how many they reach?

A. I would say that they reach every one that I do.

RE-CROSS-EXAMINATION.

By MR. MILBURN:

Q. Do you make any charge for delivering to dealers?

A. Yes, sir.

Q. What is that?

A. Ten cents a week.

MR. MILBURN: That is all.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. The American News Company makes a charge, too?

A. Fifty cents a week.

MR. DALY: That is all.

(Witness excused.)

---

FRED R. HUNT, called as a witness on behalf of the Commission, having been first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. SPIESS:

Q. Your full name, Mr. Hunt?

A. Fred R. Hunt.

Q. Where are you doing business?

A. 96 North Main, Mansfield, Ohio.

Q. What kind of business are you in?

A. Cigar and news stand, magazines.

Q. Are you in the wholesale business?

A. Wholesale all newspapers and magazines.

Q. How long have you been in the wholesale business?

A. Since 1904.

Q. Well, was that the beginning of your wholesale business of papers?

A. I started in 1896, and it was about 1904 that I started wholesaling.

Q. Wholesaling what?

A. Newspapers and magazines.

Q. How long have you been under contract with the Curtis people to wholesale?

A. I don't remember exactly, but it was along about 1903 or 1904 that I took the agency.

Q. Well, were you wholesaling newspapers at that time?

A. Yes, sir.

Q. Were you handling any other magazines before you handled Curtis?

A. No.

Q. Now, since you have been under contract with the Curtis Company have you taken on any other magazines?

A. Yes.

Q. What magazines have you taken on?

A. "Pictorial"—I handled all the magazines from the American News Company, Cleveland News Company, and "Pictorial Review," and books like "Jim Jam Gems," and the "Ten Story Book," and the Warner publications—all magazines that they pulled away from the American News Company.

Q. Did you know of Clause 13 in the Curtis contract?

A. Sir?

Q. Did you know of Clause 13 in the Curtis contract?

A. I did not remember that clause at the time that I signed up with the "Pictorial Review," because the contract is four or five years old, and I didn't look up my contract.

Q. And did you have it called to your attention by anybody connected with the Curtis Company?

A. I did.

Q. You were then handling "Pictorial Review" when it was called to your attention?

A. Yes, sir.

Q. What did you do then in connection with the "Pictorial Review"?

A. Mr. Boyce called upon me, and we had an agreement that if I would retail them I could retail them over the counter but not make a business of wholesaling.

Q. Well, did you wholesale them?

A. They were not wholesaled then.

Q. When did you begin wholesaling them?

A. When the trouble came up in regard to the contracts,—oh, about a month, I would say a month or six weeks ago; something like that.

Q. Were you under contract with the Curtis Company then?

A. Yes, sir.

Q. Then this Mr. Boyce,—who is he, that came to see you?

A. One of their representatives.

MR. MILBURN: Will you read that last answer.

(The record was read.)

By MR. SPIESS:

Q. Now, you say Mr. Boyce was a Curtis man?

A. Yes, sir.

Q. What do you mean by that?

A. One of their road men.

Q. I show you a letter dated March 22, 1917, signed "F. R. Hunt," and addressed to "M. E. Douglas," and ask you if you sent that letter to the Curtis Company. (Handing paper to the witness.)

A. Yes, sir.

MR. SPIESS: I offer this.

EXAMINER MOORE: The letter is received in evidence without objection.

(Whereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 173," and the same is in the words and figures following, to wit:)

COMMISSION'S EXHIBIT No. 173

(On letterhead of): "H U N T
The Paper Man
Mansfield, O. March 22, 1917.

Mr. M. E. Douglas,
The Curtis Publishing Co.,
Philadelphia, Pa.

Dear Sir:

I hereby agree to comply with Clause 13, of my Curtis contract by not wholesaling, directly or indirectly to boys or dealers, any copies of The Pictorial Review without first obtaining the approval of The Curtis Publishing Co.

Very truly yours,
F. R. Hunt"

(Rubber stamps:) "Refer to
Mar 26 1917
F. M. B. (?)

"Received
Mar 26 1917
F. M. B."

"Daily Mail
Mar 24 1917
Scatter."

"Refer to
Mar 26 1917
(Penciled): Mr. Douglas"

"Roadmen's Section
Mar 24 1917"

"Answered
Mar 26 1917
M. E. D."

(Endorsed on back, rubber stamp:) "Mar 24 1917
Daily Mail P"

By Mr. Spiess:

Q. Why did you write that letter to Mr. Douglas of the Curtis Company?

A. I don't think I mailed it to him.

Q. Well, it is addressed to him—Mr. Douglas of the Curtis Company.

A. Well, it was probably written at Mr. Boyce's desire, as I remember now.

Q. Well, what did Mr. Boyce say to you about writing Mr. Douglas a letter of that kind?

A. He wanted to know if I would be willing to do this in order to square up things in Mansfield.

Q. Square up what things in Mansfield?

A. Well, because he had told me that it was a case of either take the "Pictorial Review" or "The Saturday Evening Post."

Q. Were you taking the "Pictorial" then?

A. And I was getting the "Pictorial" at this time.

Q. At that time?

A. Yes, sir.

Q. And then did you give up the "Pictorial"?

A. I did not give it up. We were getting it to be put on the counter and sold.

Q. You only retailed it?

A. Retailing it.

Q. Was Mr. Boyce trying to stop you from retailing it?

A. No, sir.

Q. Well, then,——

A. No, that is what I say, he gave me permission to retail, but not to wholesale, because this says—(Indicating in letter)—"By not wholesaling, directly or indirectly, to boys or dealers."

Q. Were you contemplating wholesaling then?

A. Yes, sir.

Q. Did Mr. Boyce know it?

A. Yes, sir.

Q. And he got you to write that letter to Mr. Douglas?

A. Yes, sir.

Q. Now, what did he tell you about the Curtis Company or the "Pictorial Review"?

A. It was a case of either handling one or the other that I could not have "The Saturday Evening Post" and "The Country Gentleman," according to my contract, if I sold the "Pictorial Review."

Q. Well, at that time did you begin wholesaling the "Pictorial"?

A. I had been wholesaling before this.

Q. No, but I mean at that time that you wrote that letter did you handle the "Pictorial Review" wholesale?

A. Yes.

Q. You were wholesaling at that time?

A. Yes.

Q. Did you stop wholesaling them after that?

A. Stopped wholesaling then for a period of—oh, it must have been several months then, the last of March,—during the summer months I am sure they were not wholesaled.

Q. When then did you take it on again?

A. Taken on in the latter part of 1917.

Q. Can you give the month?

A. No, I cannot, sir.

Q. Were you under contract with the Curtis Company when you took it on again?

A. Yes, sir.

Q. Well, what happened?

A. I got a letter about December 1 stating that—it was December 3—stating thirty days from date——

Q. A letter from whom?

A. From The Curtis Publishing Company—"Thirty days from date your contract will be can-

celed," with The Curtis Publishing Company, and all money, etc., will be returned to you."

Q. Do you know why they canceled your agency?

A. I do not know, except it said according to No. 19, and that only said that "thirty days from date we can cancel the agreement." I wrote to them for an answer as to why they were doing it and received the same reply back about No. 19, and nothing was mentioned about "Pictorial Review" at this time. Then I—When the man came down to take the agency—they appointed a new one—I asked him, and he didn't know anything more about it than I did. He only had a copy of the same kind of a letter that I did.

Q. Well, did you ever get a definite reason from the Curtis Company why they wished to——

A. This last time? No, sir.

Q. ——change your agency?

A. No, sir. You have some other letters there at the beginning of the—— (Indicating.)

Q. This letter of December 3, 1917, from the Curtis Company? (Handing letter to the witness.)

A. Yes, sir.

Q. Now, when did you begin handling the "Every Week"?

A. Well, it was handled when it first came out, and then they—As I remember, they were furnished through the Cleveland News Company. And only about three weeks ago am I getting them again direct.

Q. Now, I show you——

MR. SPIESS: Well, this letter of Dec. 3, 1917, from the Curtis Company to Mr. Hunt, notifying him that under Article 19, etc.,—I offer in evidence.

MR. MILBURN: No objection.

EXAMINER MOORE: The letter is received in evidence without objection.

(Thereupon the said letter was received in evidence by the Examiner, marked "Commission's

Exhibit No. 174, and the same is in the words and figures following, to wit:)

COMMISSION'S EXHIBIT No. 174

(Carbon copy.) "December 3, 1917

Mr. Fred R. Hunt
96 North Main Street
Mansfield, Ohio

Dear Sir:

In accordance with Article 19 of the District Agency Agreement between The Curtis Publishing Company and yourself, we beg to notify you that said District Agency Agreement and your agency thereunder will be terminated, without further notice, upon the expiration of thirty days from the receipt by you of this notice, and that upon such termination we will return to you any balance of the cash security remaining, with interest.

Very truly yours
THE CURTIS PUBLISHING COMPANY
*Manager Sales Division*

MED BHL"

By MR. SPIESS:

Q. Now, I show you a copy of a letter dated March 8, 1917, from The Curtis Publishing Company, and ask you if you remember receiving the original. (Handing paper to witness.)

A. Yes, sir.

Q. Do you remember the conversation you had with Mr. Boyce in reference to the "Every Week."

A. Yes, sir.

Q. What was that conversation?

A. That it was one of the magazines that was objected to by The Curtis Publishing Company as being handled wholesale.

Q. Now, what did you advise the Curtis Company in reference to "Every Week"?

A. I did not handle it.

Q. Did you advise them you were not going to handle it.

A. I don't—I may have talked to Mr. Boyce myself, but they were not handled at that time.

MR. SPIESS: I offer this letter.

EXAMINER MOORE: The letter is received in evidence without objection.

(Thereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit, No. 175," and the same is in the words and figures following, to wit:)

COMMISSION'S EXHIBIT No. 175

(Carbon copy.) "March 8, 1917

Mr. F. R. Hunt
96 North Main Street,
Mansfield, Ohio

Dear Mr. Hunt:—

Our Mr. Boyce advises us of an offer recently made to you with a view to your wholesaling Every Week, The Woman's Home Companion and the American Magazine.

With respect to these publications, our decision under the well-known clause of your contract, would be the same as with respect to The Pictorial Review, concerning which we have just written you.

In your time and mine we have seen various periodicals announce a break with the news company and make offers to wholesalers only later to see the same publishers go back to the news company, irrespective of the wishes or interests of the wholesalers.

For these reasons you will undoubtedly weigh carefully the relative value to you of our agency and the other above mentioned.

1221

We are now paying handsome bonuses to many District Agents who are making splendid increases in sales of THE COUNTRY GENTLEMAN—many weekly bonuses ranging from $15.00 weekly upward. For example, we are printing more than a half million copies of THE COUNTRY GENTLEMAN.

Very truly yours

THE CURTIS PUBLISHING COMPANY

*District Manager*

Dictated by
MED SM"

By MR. SPIESS:

Q. Do you remember receiving from The Curtis Publishing Company in the month of February letters calling your attention to Clause 13 of your contract?

A. If those are the letters you refer to there, yes. (Indicating letters.)

Q. Well, I will show you a few letters. One is dated February 5, 1917. (Handing same to the witness.)

A. Yes, sir.

Q. And the other one is without date, headed "Concerning Your District Agency Agreement." Those form letters were sent out?

MR. MILBURN: Circular form letters.

THE WITNESS: Yes.

MR. WELCH: That is in.

MR. SPIESS: I offer the letters.

EXAMINER MOORE: The letters are received in evidence without objection.

(Whereupon the said letters were received in evidence by the Examiner, marked "Commission's Exhibits Nos. 176 and 177," respectively, and the same are in the words and figures following, to wit:)

COMMISSION'S EXHIBIT No. 176

(On letterhead of): "THE CURTIS PUBLISHING COMPANY

Philadelphia, Feb 5, 1917

Mr. Fred R. Hunt
Mansfield, Ohio

Dear Mr. Hunt:—

The plans of another publisher and his agent (news company) lead us to remind you of Clause 13 of your Curtis contract. The purpose and effect of that clause are as follows:

> With respect to periodicals not previously wholesaled by you, you definitely agreed to refrain from wholesaling to boys or dealers any periodicals not our own without first obtaining our approval.

Of course you will be very careful to make with the other publisher or his agent (news company) no arrangement contrary to your Curtis contract.

In justice to you and to avoid any situation which would be embarrassing to both you and us, we feel in duty bound to say that your arrangements with us may be continued only upon the basis stated.

Our relations have been so very pleasant that we hope to be able to supply and serve you indefinitely hereafter.

This is a general letter to all of our District Agents. Please attach it to your Curtis contract for future reference.

Very truly yours
THE CURTIS PUBLISHING COMPANY
M. E. Douglas
*Manager Sales Division*

Med"

COMMISSION'S EXHIBIT No. 177.

(On letterhead of): "THE CURTIS PUBLISHING COMPANY
Philadelphia

CONCERNING YOUR DISTRICT AGENCY AGREEMENT

At this time it is advisable to call to your attention Clause 13 in your contract, which reads as follows:

> 'To refrain hereafter from wholesaling to boys or dealers (and from attempting to influence any Curtis agent to sell) any periodicals other than those published by The Curtis Publishing Company, and to refrain from furnishing any other publisher or his agent with the names and addresses of any Curtis agents, without first obtaining the approval of the Publishers.'

Should you be requested by any one other than a representative of this Company to give him a copy of your Curtis sales report and should you grant such a request, you will of course understand that you may compel us to enforce Clause 19 of your contract by which we are instructed to retain your cash security should you violate your agreement with us.

It is not the intention of this letter to intimate that you have violated your agreement in this way. This letter is being mailed to all our District Agents alike. Certain information, received from reliable sources, causes us to so write you for your own protection.

Very truly yours
THE CURTIS PUBLISHING COMPANY
Wm. J. de Grouchy
*Assistant Manager Sales Division*

WJdeG—CL"

THE WITNESS: In explanation of some of this wholesale work, I got so many of my magazines from the Cleveland News Company, and I furnished so many cigar stands and so many magazines, and one of the magazines I get from the Cleveland News Company, and I wholesaled other magazines—I got 'Pictorial Review'' and I wholesaled along along with the rest, not that I have the exclusive agency of those,—there are two other dealers in Mansfield besides me.

By MR. SPIESS:

Q. Now, I show you a postal card addressed to the ''Pictorial Review,'' postmarked April 10, 1917, from Mansfield, Ohio, and ask you why did you send that to the ''Pictorial Review''—or, I ask if that is a postal that you did send. (Handing same to the witness.)

A. Yes, sir.

MR. SPIESS: I offer that in evidence.

EXAMINER MOORE: The postal card is received in evidence without objection.

(Thereupon the said postal card was received in evidence by the Examiner, marked ''Commission's Exhibit No. 178,'' and the same is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 178.

(Penciled on a postal card.)

(Address:) ''Pictorial Review

N Y N Y''

(On the other side:) ''Curtis Pub Co will not consent to our handling your magazine wholesale only retail

Hunts News Depot

Mansfield O''

(Red penciled:) ''100 May sent—No check (35)''

(Rubber stamped on address side:) "Received
Main Office
Apr 11 1917
Answered"
(Postoffice stamp:) "Mansfield Ohio Apr 10 1917
10.30 AM"

By Mr. Spiess:

Q. What was the occasion of your sending that postal to the "Pictorial Review" on April 10?

A. That must have been the time that Mr. Boyce was there.

Q. Telling you that the Curtis Company would object, is that the idea?

A. To handling them wholesale. And I think that they were sending me more than what I sell retail.

Q. Did you ever handle the "Literary Digest"?

A. I am handling it now; yes, sir.

Q. Did you ever ask the Curtis Company permission to do so?

A. I don't remember ever having done so. I may have done so, but don't remember it.

Q. I show you a letter dated March 8, 1917, from The Curtis Publishing Company, and ask if you received the original of that. (Handing paper to the witness.)

A. I remember getting the letter; yes, sir.

Q. Copy of letter of March 8, 1917, which is similar to other letters sent out by the Curtis Company in reference to the handling of the "Literary Digest," mentioned as their conditional sanction. Are you handling The Curtis Publishing Company's magazines now?

A. I am buying them from their new agent.

Q. You are not getting them direct?

A. No.

Q. When did you stop getting them direct?

A. January 7, I believe. I think I handled the first issue in this year.

Q. Who is their new agent?

A. E. J. Nolan.

Q. Does he handle any other magazines?

A. No. He came down and asked me about taking the agency, and I told him to go ahead and take it, and he never had handled any before.

Q. How many boys did you have when you were handling Curtis publications?

A. Between thirty and forty.

Q. Did you have any of the Curtis boys, so-called?

A. Exclusively? Only about three.

Q. Only about three. Did you ever get any money for obtaining these boys?

A. Well, there has been so many offers made in the last fourteen years of different ways, in that way of getting new boys,—whether there was any cash I don't remember.

Q. Did they ever offer you any money for just simply going and obtaining a boy to handle Curtis publications?

A. I think there has been offers of that kind made. There has been special offers that if you get so many boys that you would be allowed a dollar extra a week, or something like that. Yes, there was such offers.

Q. After you got so many boys were those boys required to sell so many copies before you received the dollar?

A. Yes.

Q. Well, now, that is not just what I am asking you now. I want to know——

A. If I got any cash or salary, do you mean? No salary.

Q. Wait a minute. Did you ever receive any cash from the Curtis Company for getting a boy to handle Curtis publications?

A. Not that I remember of.

Q. Did you ever get any money for coaching these boys how to sell Curtis publications?

A. No.

Q. How many retail news dealers are there in your city?

A. About fifteen.

Q. How many do you reach?

A. Twelve of them.

Q. Does the American News Company distribute there?

A. The Cleveland News Company furnishes myself and two other dealers with magazines.

Q. Then they only serve three dealers in the town?

A. The Cleveland News Company serves three, yes.

Q. How far are they away from Mansfield, Ohio?

A. The Cleveland News Company?

Q. Yes.

A. Eighty miles.

Q. Well, how do they serve their dealers in Mansfield?

A. By express.

Q. Who pays the express?

A. The dealer.

Q. Did you make any charge to the dealer for distributing to him?

A. No.

Q. Is there any other wholesaler there besides you?

A. No.

Q. There is a Curtis agent there, isn't there?

A. Yes, now.

Q. Yes. Before this there was not?

A. No.

Q. At the time you were under contract with the Curtis Company how many "Posts" were you selling?

A. About 500 "Posts," 125 "Gents," and 300 "Journals." That was about the average order.

Q. What was the amount of your cash bond?

A. Sixty-five dollars, I believe.

Q. Did you pay in advance for your publications?

A. Yes, sir.

Q. How much in advance?

A. Well, I would usually send them a hundred or a hundred and fifty dollars a month, something of that kind, and always be paid in advance several weeks or something like that, to a month ahead.

Q. What percentage of your business was Curtis business?

A. Oh, I would figure about 20 per cent. of the magazines.

Q. Twenty per cent. of the magazines?

A. Yes, sir.

Q. What percentage was it of your entire business?

A. About five.

Q. Five per cent.?

A. Yes.

MR. SPIESS: That is all.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. You said, Mr. Hunt, that you began to wholesale the "Pictorial Review" when you heard about the trouble with reference to the contract. Did you mean this proceeding? What do you mean by that?

A. Well, it was about that time; yes, sir.

Q. What do you mean by the trouble? Did you hear that this proceeding had been brought, or did you hear that there was a law suit or something of that kind?

A. I had heard of it; yes sir.

Q. From whom did you hear it?

A. Saw it in the papers.

Q. And did you hear of it in any other way?

A. Not that I remember of now, sir.

Q. Did you get a request from "Pictorial" asking you to wholesale it then, or did you write to them?

A. No, sir; I didn't get any request from them.

Q. Then did you write to them and ask for an opportunity to wholesale it?

A. No, sir.

Q. Well, it could not have dropped on you out of the air?

A. I don't remember just how that—how it did happen at that time. I started out wholesaling them and making more of a business of it than before. Before it had just been retail to any one that came in, you know, to get them, and it was not being delivered.

Q. Then you began getting them direct from the publishing house?

A. We always had gotten them direct, sir.

Q. Even for retail purposes?

A. Yes, sir.

Q. How many boys—You make a report every week on these Curtis boys, don't you?

A. Yes, sir.

Q. How many boys did you report each week?

A. From thirty, I believe, to forty. I did not check them up myself. It was my clerk looked after that part of the work and I cannot say exactly.

RE-DIRECT EXAMINATION.

By MR. SPIESS:

Q. Now, the boys that you reported to the Curtis Company, these boys also handled newspapers and other magazines?

A. Yes, sir; they are all newsboys in the first place, street boys, and I give them their "Posts" out on a credit system.

Q. Then there were really only about two or three, you stated?

A. Only boys that sold nothing else.

MR. SPIESS: I see.

RE-CROSS-EXAMINATION.

By MR. MILBURN:

Q. Did these boys handle other magazines, all of them?

A. Yes, sir.

Q. What magazines did they handle?

A. Well, they had the "Post" and "Gentleman" and "Journal," while they never made any special business of selling papers if they come in with the money and wanted something, some other kind of magazine, they could have it. These street boys that would go up and down the street selling magazines can ask for any magazine and they would get it.

Q. If they asked you for a magazine you sold it?

A. Yes; anything I had that they wanted they could get it and have their commission on it.

RE-DIRECT EXAMINATION.

By MR. SPIESS:

Q. They did get them?

A. Yes, sir.

(Witness excused.)

---

LESTER DEWEESE, called as a witness on behalf of the Commission, having been first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. SPIESS:

Q. What is your name, Mr. Deweese?

A. Lester Deweese.

Q. Where are you in business?

A. Canton, Ohio.

Q. Are you in the wholesale business?

A. That is part of the business; yes, sir.

Q. How long have you been in the wholesale business?

A. Since the 5th of October, 1891.

Q. What were you wholesaling?

A. At that time, do you mean?

Q. Yes.

A. Well, my business started as the City Circulator of "The Repository" mainly. That is, I mean that was the bulk of the business at that time, and I was agent for the Cleveland, Pittsburgh, Cincinnati and Chicago papers—being added from time to time.

Q. How long have you been under contract with the Curtis Company?

A. Since, I think, 1908.

Q. Approximately ten years.

A. Well, yes; at least that. I could not find my original contract, so I do not know the exact date. But I got in pretty quick after they began to make contracts with District Agents.

Q. Now, before you entered into a contract with the Curtis Company were you wholesaling any other magazine?

A. So far as magazines, I think the only thing we had was the Red Star stuff—Munsey publications.

Q. Have you ever handled the "Pictorial Review" since you have been under contract with the Curtis Company?

A. No, sir.

Q. Did you ever try to handle it?

A. Yes, sir.

Q. Well, why didn't you?

A. Because The Curtis Publishing Company objected.

Q. Did you take it up with the Curtis Company?

A. Yes, sir.

Q. In your contract with the Curtis Company, do you know about Clause 13 of your contract with the Curtis Company?

A. I have been reminded of it quite a number of times.

Q. Well, do you know just what it is?

A. I do.

Q. I show you a letter of February 5, 1917, from Mr. M. E. Douglas, of the Curtis Company, and ask you if you remember receiving that. (Handing letter to the witness.)

A. Well, it is my own letter.

Q. Did you receive it?

A. Yes, sir.

Q. And you read it?

A. Yes, sir. I realized at the time it was a form letter, although my name was written in there. I knew it was coming.

MR. SPIESS: This is the form letter referred to in the previous hearings.

By MR. SPIESS:

Q. I now show you a letter dated February 16, 1917, addressed to The Curtis Publishing Company and signed by The News Exchange Company. (Handing letter to the witness.)

A. Perhaps—Pardon me. Perhaps you had better give me an opportunity to say I do business under the name of The News Exchange Company.

Q. I was just about to ask you.

A. Although I am the sole proprietor. A lot of contracts were in the name of Lester Deweese, but the last one is in the name of The News Exchange Company.

Q. When did you make the last contract?

A. I think that I have it—Didn't I give you the last contract?

Q. I think you did.

A. No, we didn't get that far along before we were disturbed. (Producing papers.) The top one is the last one, I think. (Indicating.)

Q. I now show you a letter dated February 16, 1917, addressed to The Curtis Publishing Company and signed The News Exchange Company, and ask you if you wrote that letter. (Handing letter to the witness.)

A. Yes, sr; I did.

Mr. Spiess: I offer this letter.

Examiner Moore: The letter is received in evidence without objection.

(Thereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 179," and the same is in the words and figures following, to wit:)

Commission's Exhibit No. 179.

(Carbon copy.) "Feb. 16, 1917

Attention of Mr. Douglas
The Curtis Publishing Co.
Philadelphia, Pa.

Gentlemen:

We are informed that Pictorial Review intends to give to the independent wholesalers of the country a jobbing rate on their publication. In fact the opportunity to handle it for Canton has been presented to us. In his circular Mr. McKinnon expressly states that they do not intend to work up any boy sale. In view of this fact and the fact that we desire to be in a position to get the business, if there is any considerable tendency away from "The News Co." toward the independent distributors on the part of the other big publishers, we request The Curtis Publishing Co. gives its assent to our adding The Pictorial Review to the

list of publications we are now distributing in Canton. Frankly, we do not believe that the addition of The Pictorial Review to our list would cut into the sale of The Ladies Home Journal, a single copy.

Awaiting your early reply, which we have every reason to believe will be favorable, we beg to remain,

Yours respectfully,

L-W THE NEWS EXCHANGE CO."

By MR. SPIESS:

Q. I now show you a letter, dated February 20, 1917, from The Curtis Publishing Company in answer to your letter of February 16, and ask if you received and read that letter. (Handing paper to the witness.)

A. I did.

MR. SPIESS: This letter is similar to other letters that you have been sending out, and it is in reference to advising the agent that if they undertake to handle these other magazines, directly or indirectly, you would wish to cancel your arrangement with them.

MR. MILBURN: Yes. Did you offer it?

MR. SPIESS: No, we have offered so many of them.

MR. DALY: Well, you want to offer it?

MR. SPIESS: I put that in the record.

MR. DALY: My theory was to offer them and have them admitted.

MR. SPIESS: Well, then I offer this in evidence.

EXAMINER MOORE: The original letter has been identified, and you can refer to that by number. It may be receivd.

(Thereupon the said letter was received in evidence by the Examiner, marked "Commission's Exhibit No. 180," and the same is in words and figures as follows, to wit):

COMMISSION'S EXHIBIT No. 180.

(On letterhead of):

"THE CURTIS PUBLISHING COMPANY
Philadelphia

February 20, 1917.

The News Exchange Company
223 Tuscarawas Street, West
Canton, Ohio

Dear Mr. Deweese:—

In reply to your letter dated February 16:

Our mutual interests, yours and ours in common, will be best served by your not making any arrangements to wholesale the other periodical referred to.

One fundamental fact stands out prominently: There is a limit to the number of periodicals seeking circulation among readers of the same class, which a District Agent can handle without taking on the limitations of a branch of the news company. We have District Agents because we need representatives free from such limitations. You are our valued representative because you have heretofore been free from such limitations.

That you may get our exact shade of meaning, let me quote from a letter recently mailed to a Curtis District Agent in another state, of whose loyalty to us we were not wholly confident as we are of your loyalty.

In this letter to the other District Agent we said:

> 'If you undertake it (wholesaling the other periodical mentioned), directly or indirectly, we should wish to cancel your arrangements with us.'

There is nothing temporary or uncertain about our policy of continued direct supplies to District Agents, including you, in accordance with our contracts, and our mutual interests, yours and ours alike, will be best served by the maintaining of methods and policies above mentioned.

At your convenience in the course of a few days we shall be very glad to have you tell us what is your preference with respect to the continuance of the very pleasant relations which have so long existed between us.

We are much interested in any increased local effort for larger sales of THE COUNTRY GENTLEMAN and are willing and anxious to pay handsome, liberal bonuses for COUNTRY GENTLEMAN increases during the months to follow.

With kind personal regards,

Very truly yours

THE CURTIS PUBLISHING COMPANY

C. L. Grosjean

*District Manager*

Dictated by

MED SM

M. E. Douglas"

By MR. SPIESS:

Q. I now show you a telegram, dated March 15, 1917, addressed to you from the Curtis Company, and ask if you received and read that telegram. (Handing paper to witness.)

A. Yes, sir.

MR. SPIESS: I offer that.

(Thereupon the said telegram was received in evidence by the Examiner, marked "Commission's Exhibit No. 181," and the same is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 181.

(Western Union Telegram form.)

"18 18 G B G 15

S Phila Pa Mar 15th 1225PM.

Lester Deweese

The News Exchange,

Canton, Ohio.

Do you expect to wholesale the May or later issues of Pictorial Review Letter follows.

THE CURTIS PUB CO.

1252PM"

By MR. SPIESS:

Q. I now show you copy of a letter, dated March 15, 1917, to the Curtis Company, signed The News Exchange Company, and in answer to telegram of March 15, and ask you if you sent that letter to the Curtis Company. (Handing paper to the witness.)

A. Yes, sir.

MR. SPIESS: I offer that.

(Thereupon the said copy of letter was received in evidence by the Examiner, marked "Commission's Exhibit No.. 182," and the same is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 182.

(Carbon copy.) "Mar. 15, 1917.

(Penciled): Attention M. E. Douglas

(Penciled): Curtis Pub. Co. Philadelphia, Pa.

We have again been urged to act as wholesale agents for The Pictorial Review. Because we had asked your acquiescence and were refused, we declined for the present to act in that capacity.

Instead, we placed our order for the May supply for our retail department and paid for it at the eleven-cent rate. That was this morning. This afternoon we were told that we could be furnished our May copies by Ralph Young.

We have nothing against Mr. Young. But we cannot help but recall that The Repository has run several display advertisements of The Country Gentleman within the past few months, which, though signed by Mr. Young, looked very much as though they had been gotten up by the subscription department of The Country Gentleman and probably paid for by that department.

Though we handle subscriptions for The Country Gentleman, and by our efforts among the boys create an interest in that publication, and make easier the matter of getting subscriptions, we got no part of the benefit of that campaign of publicity. Evidently Mr. Young isn't restricted in his activities by any contract as is now being used to our disadvantage.

We can not but feel that in knowing just what agencies have been allowed to take on Pictorial Review with or without your sanction, and which ones have had the Curtis business taken away because the dealer had taken on Pictorial Review without your sanction. It would be interesting news in view of what we have heard from other sources.

We trust you will see fit to answer this last portion of this letter with the same candor I anticipate you will use in your reply to other portions of it.

Yours respectfully,

LD/CW THE NEWS EXCHANGE CO."

By MR. SPIESS:

Q. I now show you a telegram, dated March 20, from M. E. Douglas, of the Curtis Company, and ask if you remember receiving that telegram. (Handing paper to the witness.)

A. Yes, sir.

MR. SPIESS: I offer this.

EXAMINER MOORE: The telegram is received in evidence without objection.

(Thereupon the telegram was received in evidence by the Examiner, marked "Commission's Exhibit No. 183," and the same is in the words and figures following, to wit):

COMMISSION'S EXHIBIT No. 183.

(Postal Night Lettergram form.)

"6 H A 49 N.L. 655A

Ch-Philadelphia Pa March 20

Lester Deweese

223 Tuscarawas Street West Canton O

To no district agent have we given pictorial review approval to date only one agent is by us known to have wholesaled it without our approval we changed that agency last week it was an Ohio agency Mr. Boyce will give you particulars when he reaches Canton letter follows

M E Douglas"

By MR. SPIESS:

Q. Did you ever handle the magazines of the Publishers' News Company?

A. Yes, sir.

Q. How long did you continue to handle those?

A. Until I had to give up. I don't recollect how long.

Q. Did you have to give them up?

A. Yes, sir.

Q. Why did you have to give them up?

A. Because of that contract, or that clause.

Q. What clause?

A. Referred to in the last one as No. 13, although I think it was a different number in the earlier contract.

MR. SPIESS: Number eleven?

MR. M. E. DOUGLAS: Probably No. 11.

MR. SPIESS: Probably No. 11.

By MR. SPIESS:

Q. You mean by that, with the Curtis Company, that the Curtis Company compelled you to give it up?

A. Yes, sir.

MR. MILBURN: Let's see—I object to "compelled." The word "compelled."

By MR. SPIESS:

Q. Well, insist on your giving it up?

MR. MILBURN: If you wished to retain your Curtis contract.

THE WITNESS: Well, that was the same thing.

MR. MILBURN: That was the situation.

MR. SPIESS: Yes.

THE WITNESS: And I put up an additional $25.00 to prove that I would not.

By MR. SPIESS:

Q. That you would not handle the Publishers News Company's magazines?

A. Yes, sir.

By MR. DALY:

Q. When was that?

A. Whenever those dates are, along '11 or '12.

By MR. SPIESS:

Q. Around 1912, November—from there around?

A. Whatever that is. I don't pretend to remember the dates of any of them.

Q. What magazines were you handling for the Publishers News Company?

A. For the Publishers?

Q. For the Publishers News Company.

A. "Everybody's," "Adventure," "Delineator," "Designer," and "Standard"—or, the "Delineator," those — the three fashion magazines, "Delineator," "Designer" and "Woman's Magazine," yes.

Q. How many copies of "Delineator" were you circulating at that time?

A. In the neighborhood of 150, I think.

Q. A month?

A. Yes; it is a monthly.

Q. I show you a letter dated July 29, 1912, addressed to The Curtis Publishing Company, and ask you if you sent that letter in reference to the Publishers News Company magazines.

(Handing paper to the witness).

A. Yes, sir.

MR. SPIESS: I offer that.

MR. MILBURN: I make a formal objection to that on the ground that it has got nothing to do with the issues here, refers to a controversy, or matters that ocurred in 1912, prior to the passage of the Clayton Act, or the Federal Trade Commission Act, under which acts this proceeding is brought.

MR. SPIESS: We insist, on the same grounds as before, that we can introduce contracts or documents pertaining to contracts that were entered into before the Clayton Act was passed.

EXAMINER MOORE: Decision is reserved on the admission of this letter; also, on the admissibility of another letter offered, and objected to by counsel for respondent this morning, on the same ground.

MR. DALY: We can give you the authorities on that point if you want.

EXAMINER MOORE: Well, I will reserve decision on that.

MR. WELCH: Mr. Examiner, in that connection I think there were one or two other instances. I think there was one in Chicago on which there were some objections made.

EXAMINER MOORE: Not on the same ground as just stated, I think. I do not recall it.

MR. WELCH: Well, wherever that objection was raised.

EXAMINER MOORE: We will reserve that until some subsequent time.

MR. SPIESS: Is this letter admitted subject to your decision later on?

EXAMINER MOORE: Yes, we admit the letter subject only that I reserve final decision on the admissibility of it. (Whereupon the said letter was received in evidence, as stated, by the Examiner, marked "Commission's Exhibit No. 184," and the same is in words and figures as follows, to wit:)

COMMISSION'S EXHIBIT No. 184.

(Written with pen.)

"Attention, Mr. A. H. Reed, Asst. Sales Mgr,

July 29/12.

Curtis Publishing Company.
Philadelphia.

Gentlemen:

Your letter of the 26th. inst., regarding the contract with the Publishers News Company has been forwarded to me here, where I am spending a short vacation—the first of any length in years.

I do not happen to have a record of the dates, etc., nor copy of the letter of notification; however, I can assure you from here that notice of cancellation of contract has been sent The Publishers News Company as per your demand. The information blank was overlooked, and will be filled out on my return home.

Respectfully
Lester Deweese
News Exchange Co.
Canton, Ohio.

Written at Buttonwoods
R. I. (near Providence) 7/29/12.
(Penciled memo.:) Copy."

By Mr. Spiess:

Q. How many boys have you, Mr. Deweese?

A. Well, I have 175, when I am going to the circus, and about eighteen on a bad Saturday night. The 175 are "Repository" carriers. Up to the 29th of December,—from the 25th of October, 1891, I was city circulator of "The Repository"; I gave it up on the 29th of December. I still handle the outside dailies.

Q. At the present time how many boys have you handling newspapers and magazines?

A. Well, I really don't count them because we don't—except in the case of the Curtis, we don't keep score on them; they come and go.

Q. Well, how many so-called Curtis boys have you?

A. We list between sixty and seventy.

Q. How many of the boys handle Curtis publications exclusively?

A. Possibly half of them.

Q. Possibly half?

A. We don't list them separately, however.

Q. No.

A. That is, we keep a list of the "The Saturday Evening Post" sales in a book furnished by The Curtis Publishing Company, and if a boy buys papers and "Posts" at the same time, we keep a record of the "Posts" only. I say,—I mean papers, I mean daily papers.

Q. Did you ever get any money from the Curtis Company for getting boys?

A. From time to time small amounts, yes.

Q. Now, in just what way did you get money from them for these boys?

A. Well, I got a check a couple of weeks ago for one boy having gotten to the Master Salesman class. I forget just what the amount of it was; five or ten dollars.

Q. Did you ever get any money for getting a boy to handle Curtis publications?

A. You mean——

Q. Any of the boys.

A. Any fee, or sum, or specified pay for any particular boy's work?

Q. Well, did you ever go out and get boys, and then the Curtis Company gave you so much per boy for obtaining them?

A. I don't recall. I could not state positively as to that.

Q. Did you ever get any money for coaching these boys?

A. Only when their earnings happen——

Q. Yes, but I don't mean that.

MR. WELCH: Let him finish, please

THE WITNESS: When I take——

MR. SPIESS: He is not answering my question at all. I didn't ask him that question at all. Just a minute.

By MR. SPIESS:

Q. Now, I am asking you a question. Just pay attention to the question I am going to ask, Mr. Deweese, so as to get this straight in the record, please. Did you ever receive any money from the Curtis Company for coaching boys to sell magazines, irrespective—— Now, I will make it a little plainer for you, probably.

A. All right.

Q. Irrespective of what they sold?

A. No, sir.

Q. Whether they sold any magazines for the Curtis Company or not—just for coaching?

A. No. Now, that I understand your question I can answer it.

Q. Yes, sir. Are you the only wholesaler in Canton, Ohio?

A No, sir.

Q. Who is the other wholesaler? Who are the other wholesalers?

A. You mean of magazines, or newspapers?

Q. Independent wholesalers.

A. Ralph Young is the man who took on the "Pictorial Review," and he has added since a half dozen others that came to him by reason of his having the "Pictorial Review."

Q. Now, before the "Pictorial" agent was put on there, how many wholesalers were there there?

A. None beside myself. But I understand—— I have heard within the last week that the "Woman's Home Companion" and the "Every Week" would be handled by the City Circulation Manager of "The Daily News."

By Mr. Daly:

Q. Do you know that, Mr. Deweese?

A. Beg pardon?

Q. Do you know that, or is that something you have just heard about it?

A. Well, I got it so straight that I am inclined to believe it.

Q. Yes?

A. I don't think that he has put out any magazines yet, but from what I heard he is to take the next one.

By Mr. Spiess:

Q. And up to the time that they put on the "Pictorial" agent you were the only independent wholesale distributor there?

A. Yes, sir.

Q. How many dealers are there in your town, retail dealers?

A. About thirty or thirty-five.

Q. How many of them do you serve?

A. All of them.

Q. Is there a branch of the American News Company?

A. No, sir.

Q. What is the nearest branch?

A. Cleveland. Akron is the nearest, but we all get our supplies from Cleveland.

Q. How many of the retailers do they reach, do you know?

A. Probably half of them.

Q. How do they get their supplies from the branch of the American News Company?

A. By express or mail. Mostly by express.

Q. Who pays the charges, if you know?

A. The customer.

Q. Do your customers pay you any charges for delivering magazines or papers to them?

A. No, sir.

Q. Do you handle the "Literary Digest"?

A. Yes, sir.

Q. Did you ask the Curtis Company for permission?

A. No, sir.

Q. How much—what percentage of your business is Curtis publications?

A. Up to the time that I gave up "The Repository," it was about 2 per cent.

Q. Well, what is it now?

A. Well, probably five or six.

Q. That is, including papers and magazines?

A. But I am in the office supply business, so that the gross receipts there run up pretty fast.

Q. Now, what percentage of the magazine business is the Curtis publications?

A. Probably a third—33, between 30 and 40 per cent.

Q. What equipment have you for distributing?

A. I have always used a horse and wagon up until last week, when I put on a truck.

Q. What bond have you with The Curtis Publishing Company?

A. One hundred dollars cash.

Q. Have you increased it recently?

A. Not in the last eight or ten years.

MR. SPIESS: That is all.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. How many of these boys did you report to the Curtis Company as dealing in Curtis publications?

A. Practically every boy who buys.

Q. About how many would that be per week, do you know?

A. Well, between sixty and seventy, I believe I said there.

Q. And some of those boys handle Curtis exclusively, do they not?

A. Very few of them—half of them.

Q. Some of them, if they come in and want to get a magazine from you, you will sell it to them to make a delivery, and they make a commission on any other magazine, is that true?

A. We do on those that we wholesale, just depending on the boy, whether we will sell him a magazine off of our retail counter that we get from the news company.

Q. But the bulk of the other—the permanent business is Curtis business?

A. Of that half—of that thirty, half are the street boys who buy all their magazines from us except the two local papers.

Q. How many—what proportion handle Curtis exclusively, or both—of everything else?

A. Well, I could not answer positively, because I do not know that I ever made the separation. I would say about half of them.

MR. MILBURN: About half of them. That is all.

RE-DIRECT EXAMINATION.

By MR. SPIESS:

Q. What proportion of your business is newspapers and magazines?

A. Well, I have to answer the same way. The taking away of "The Repository" has so upset the matter of gross receipts that I could not tell you exactly.

Q. Can you approximate it?

A. I could tell you the profits—a darned small proportion of the gross profits.

Q. On magazines and newspapers?

A. Yes, sir.

Q. Or both?

A. Yes, sir. That is, the wholesale end.

MR. SPIESS: That is all.

MR. MILBURN: That is all.

(Witness excused.)

MR. DALY: Mr. Examiner, the witness Mr. Alvis does not seem to have come, and we do not think it is worth while to delay this hearing for his presence. He is probably snow-bound, or something like that.

MR. SPIESS: He is from Akron, Ohio.

MR. DALY: Now, I have talked to Mr. Welch—I do not remember whether Mr. Milburn was present or not—about the next hearing. We have agreed that that hearing will be held either in New York or Washington,—very likely in New York, however,—and that the time will be fixed by counsel. In the event that counsel can not agree, why, the Examiner shall fix the time.

(After informal discussion, at the hour of 1.30 o'clock P. M. of the same day, the further hearing of the above entitled matter was continued subject to agreement between counsel, as hereinbefore set forth.)

BEFORE THE FEDERAL TRADE COMMISSION.

*Federal Trade Commission*, Complainant,
v.
*The Curtis Publishing Company*, Respondent.
} Docket No. 15.

Room 620, Custom House, New York City,
February 27th, 1918, 10.30 A. M.

The above entitled matter came on for hearing before Attorney-Examiner Charles S. Moore, pursuant to agreement.

Appearances: A. M. DALY, ESQ., and L. A. SPIESS, ESQ., appearing for the Federal Trade Commission, and JOSEPH W. WELCH, ESQ., and JOHN G. MILBURN, JR., ESQ., appearing for the respondent.

## PROCEEDINGS.

EXAMINER MOORE: Are you ready, Gentlemen?

MR. WELCH: Yes, sir.

MR. DALY: Yes, sir.

Mr. Examiner, at pages 83 and 84 of the record, a number of exhibits were marked for identification, beginning with "C" and ending with "Q" and later, in the record, it appears that they were copied in full, as if they had been actually admitted in evidence. Now, I desire to correct the record by proving these particular exhibits.

MR. WELCH: Mr. Daly, there was another letter, exhibit "W."

MR. DALY: We will withdraw that. I desire to

withdraw Commission's Exhibit "W" and ask that it be stricken out of the record, where it now appears at page 196.

MR. WELCH: Mr. Daly, that means physically removed from the record?

MR. DALY: Physically removed from the record, yes.

EXAMINER MOORE: It is so ordered.

MR. DALY: Now, Exhibit D seems to have been admitted twice. It also seems to be in evidence as Exhibit 11, and it was also marked for identification as Exhibit D. We desire to withdraw the letter where it is marked as Exhibit D, because it is already in the record.

EXAMINER MOORE: The letter will be withdrawn as requested.

MR. WELCH: Now, one minute. Are you going to call witnesses?

MR. DALY: I was going to, if we deemed it necessary.

MR. WELCH: There is no use of proving Exhibit C.

MR. DALY: We offer Exhibit C in evidence. It appears in full in the record on page 164 and is marked for identification Commission's Exhibit C on page 83. We ask that that be received in evidence.

EXAMINER MOORE: That is received in evidence without objection.

(The paper previously marked Commission's Exhibit C for identification was received in evidence and marked "Commission's Exhibit C in evidence," of this date.)

MR. WELCH: We now offer in evidence Commission's Exhibit E for identification. It is already in full in the record at page 167.

EXAMINER MOORE: Exhibit E for identification is admitted in evidence without objection.

(The paper heretofore marked Commission's Exhibit E for identification was received in evidence and marked "Commission's Exhibit E in evidence," of this date.)

MR. DALY: Exhibit F.

MR. WELCH: Exhibit F may be offered.

EXAMINER MOORE: Exhibit F is admitted in evidence without objection.

(The paper heretofore marked Commission's Exhibit F for identification was received in evidence and marked "Commission's Exhibit F in evidence," of this date.")

MR. DALY: Exhibit G appears in full in the record at page 171. We offer that in evidence.

MR. WELCH: That is all right.

EXAMINER MOORE: That is received in evidence without objection.

(Commission's Exhibit G for identification was received in evidence and marked "Commission's Exhibit G in evidence," as of this date.)

MR. DALY: Exhibit H is spread upon the record in full. That is marked Exhibit H for identification. We offer that in evidence.

MR. WELCH: No objection.

EXAMINER MOORE: Exhibit H is received in evidence without objection.

(Commission's Exhibit H for identification was received in evidence and marked "Commission's Exhibit H in evidence," of this date.)

MR. DALY: We now offer Commission's Exhibit I, which has been marked for identification.

MR. WELCH: No objection.

EXAMINER MOORE: Exhibit I is admitted and received in evidence without objection.

(Commission's Exhibit I for identification was received in evidence and marked "Commission's Exhibit I in evidence," of this date.)

MR. DALY: We also offer Commission's Exhibit J for identification.

MR. WELCH: No objection.

EXAMINER MOORE: Exhibit J is received in evidence without objection.

(Commission's Exhibit J for identification was received in evidence and marked "Commission's Exhibit J in evidence," of this date.)

MR. DALY: We offer Commission's Exhibit K in evidence. It appears in the record now at page 176.

MR. WELCH: We object to that letter on the ground that it is not a letter written by any one of the Curtis Company's designated agents, or anyone connected with the Curtis Company and contains statements of a person which would amount practically to his testimony, and as to which statements we have no opportunity to cross-examine. They are voluntary, self-serving statements by a man whom we have had no opportunity to cross-examine, and he is not connected with our organization and we therefore object.

MR. SPIESS: He is an agent of yours.

MR. WELCH: No.

MR. DALY: We withdraw Exhibit K.

MR. WELCH: That will be physically removed.

MR. DALY: We ask that it be physically removed from the record.

EXAMINER MOORE: Exhibit K is withdrawn and will be physically removed from the record.

MR. DALY: Now we offer in evidence Commission's Exhibit L for identification, letter dated March 3d, 1917.

MR. WELCH: No objection.

EXAMINER MOORE: Exhibit L is received in evidence, without objection.

(The paper heretofore marked Commission's Exhibit L for identification was received in evidence

and marked "Commission's Exhibit L in evidence," of this date.)

MR. DALY: We offer in evidence Commission's Exhibit M for identification.

MR. WELCH: There will be no objection to that.

EXAMINER MOORE: Exhibit M is received in evidence without objection.

(The paper heretofore marked Commission's Exhibit M for identification was received in evidence and marked "Commission's Exhibit M in evidence," of this date.)

MR. DALY: We offer in evidence Commission's Exhibit N for identification.

MR. WELCH: No objection.

EXAMINER MOORE: Exhibit N for identification is received in evidence without objection.

(Commission's Exhibit N for identification was received in evidence and marked "Commission's Exhibit N in evidence," of this date.)

MR. DALY: Commission's Exhibit O for identification is offered in evidence.

MR. WELCH: No objection.

EXAMINER MOORE: Exhibit O is received in evidence without objection.

(Commission's Exhibit O for identification was received in evidence and marked "Commission's Exhibit O in evidence," of this date.)

MR. DALY: We likewise offer Commission's Exhibit P for identification in evidence.

MR. WELCH: No objection.

EXAMINER MOORE: Commission's Exhibit P is received in evidence without objection.

(Commission's Exhibit P for identification was received in evidence and marked "Commission's Exhibit P in evidence," of this date.)

MR. DALY: We offer Commission's Exhibit Q for

identification, which is found at page 184 of the record.

MR. WELCH: No objection.

EXAMINER MOORE: Exhibit Q is received in evidence without objection.

(Commission's Exhibit Q for identification was received in evidence and marked "Commission's Exhibit Q in evidence," of this date.)

MR. DALY: Now, at the Boston hearing, four letters were marked for identification, on page 648 of the record, Mr. Welch. Beginning on page 648 of the record of the Boston hearing, we offered four letters addressed to Goldsmith & Company, signed by the Curtis Publishing Company, dated April 7th, 1911, June 25th, 1912, June 26th, 1912, and July 25th, 1912, all of which were objected to by counsel for the respondents on the grounds that these four letters have reference to transactions in 1911 and 1912, and cover a time prior to the enactment of the statute under which these proceedings are brought. We now desire to offer these letters in evidence.

MR. WELCH: We make the same objection to the admission of all these letters previously stated in the record, that they refer to a situation and to acts long prior to the passage of the Clayton Act, and that they are immaterial to the issues involved in this case, and incompetent in this case as proof of anything under the complaint.

EXAMINER MOORE: The objection is overruled, and on page 1678 of the record, at the Columbus hearing, decision was reserved at that particular time involving the same point. The Examiner now rules on that and overrules the objection.

MR. WELCH: We take an exception.

EXAMINER MOORE: An exception will be noted.

(The letter of April 7th, 1911, marked for identification, was received in evidence and marked "Com-

mission's Exhibit No. 185 in evidence," of this date and is in words and figures as follows:

(Letter head of Curtis Publishing Company.)

"April 7, 1911.

Mr. Arthur Goldsmith & Company.
4 Barton Street,
Salem, Massachusetts.

Gentlemen:

Recently certain periodical publishers have, by letter or roadman, approached a number of our district agents, offering them direct supplies by an arrangement similar to the one now in effect between this Company and yourself.

Heretofore I have not asked you to refrain from wholesaling other periodicals, but it might be necessary for me to embody such a clause in our understanding with you, should many periodical publishers arrange to make their distributions through you, for we then would lose the advantage we now find in having you jealously guard our special local interests, irrespective of the interests of others. Only by holding the advantages we now secure by the existing arrangement, can we continue the inducements with which you are now favored.

I should be extremely sorry to request you to refrain from wholesaling other periodicals. I shall never urge your so refraining, unless as a defensive measure.

In individual cases, I have assisted many of our district agents to obtain wholesale agencies for one or more other publications—always with the knowledge that each one's interest and effort in behalf of The Curtis Publishing Company is diluted exactly in proportion to his interest and effort in behalf of other publications. Should you permit your interest and effort with us to be so diluted by allegiance to other periodicals, as to prevent us from obtaining or maintaining the desired local representation, it is clear that you should

choose between us and the other publishers, as fas as continuing to control our local output is concerned.

I would have you understand that this is a general letter, issued to all of our district agents, and that it is not dictated as a result of any report of action taken or contemplated by yourself.

Very truly yours,
THE CURTIS PUBLISHING COMPANY,
M. E. Douglas,
EHL. No. 1 *Manager Sales Division.*"

(The letter of June 25th, 1912, previously marked for identification, was received in evidence and marked "Commission's Exhibit No. 186 in evidence," of this date, and is in words and figures as follows:)

(Letter head of The Curtis Publishing Company.)

"June 25, 1912.

A. F. Goldsmith & Co.,
4 Barton Street,
Salem, Massachusetts.

Gentlemen:

Recently we asked you to terminate your arrangement to wholesale The Publishers News Company's periodicals to the trade in your territory. We made this request of you, you will remember, after we learned that you had arranged to act as wholesale agent for The Publishers News Company, either under a contract with them, or without one.

On June 25th we received from the office of The Publishers News Company a letter, saying:

> *Definite instructions have been issued to our roadmen not to appoint as a Publishers News Company representative, any agent who is under a Curtis contract. We don't want him. This policy will be strictly adhered to.*

Taken at its face value, the above statement, which came to us on the letterhead of The Publishers News Company, means that they do not expect you to act as wholesale agent for them.

Should you receive from The Publishers News Company after this date, any letter expressing an inclination on their part to require you to carry out any undertaking you may heretofore have made with them, you may write to them, quoting their June 25th letter to us and stating that you regard that letter as releasing you from any obligation to distribute any of their later editions.

Very truly yours,
THE CURTIS PUBLISHING COMPANY,
M. E. Douglas,
MED CO *Manager Sales Division.*"

(The letter of June 26th, 1912, previously marked for identification, was received in evidence and marked "Commission's Exhibit No. 187 in evidence," of this date, and is in words and figures as follows:)

(Letterhead of The Curtis Publishing Company.)

"June 26, 1912,

A. F. Goldsmith & Co.,
4 Barton Street,
Salem, Massachusetts.

Gentlemen:

This afternoon Curtis district Agent, William H. Mohr, New Jersey, wired us as follows:

*"Have been released from Publishers News Company contract without thirty days notice."*

The above report by our representative, Mr. Mohr, manifestly confirms what we wrote you in a letter within a day or two—namely, that you can probably regard The Publishers News Company's June 25th letter to us as releasing you from any obligation to distribute any of their later editions.

Very truly yours,
THE CURTIS PUBLISHING COMPANY,
M. E. Douglas,
MED CO *Manager Sales Division.*"

(The letter of July 25th, 1912, previously marked for identification was received in evidence and marked "Commission's Exhibit No. 188 in evidence," of this date, and is in words and figures as follows:

(Letterhead of The Curtis Publishing Company.)

"July 25, 1912.

Messrs. A. F. Goldsmith & Company
4 Barton Square,
Salem, Massachusetts

Gentlemen:

In order that we may have a distinct understanding of the severance of all your relations with The Publishers News Company, please send to us a carbon copy of your letter to that company terminating any arrangements that you may have with them to distribute their publications, either with or without a contract.

We are confident that the conference you plan with our New England representative, Mr. Jones, will result in a conviction that, in definitely terminating any arrangements between you and that one company, you are acting for your own best interests.

Yours very truly,

THE CURTIS PUBLISHING COMPANY,
A. H. Reed,
*Assistant Sales Manager.*"

AHR FSH

EXAMINER MOORE: That ruling also applies to a letter previously offered at the Columbus hearing, which this reservation was made to cover. This ruling, I think, follows the decision in United States versus United States Shoe Machinery Company, 227 Fed. Rep., 507; Elliott Machine Company versus Center, 227 Fed. Rep., 124; United States versus Standard Oil Company, 221 U. S., 1; and United States versus American Tobacco Company, 201 U. S.: I have forgotten the page number.

MR. DALY: On the cross-examination of Mr. Mac-

kinnon, certain material was requested. Mr. Mackinnon is here and has the material which counsel for the respondent asked for.

MR. WELCH: I should want to cross-examine Mr. Mackinnon on this.

MR. DALY: Then we will call him. Do you want to take it up right away?

MR. WELCH: Yes.

MR. DALY: We will call Mr. Mackinnon, then.

---

B. A. MACKINNON was called as a witness on behalf of the Commission, and, having been previously sworn, testified further as follows:

CROSS-EXAMINATION (Continued).

By MR. WELCH:

Q. Mr. Mackinnon, at page 432 of the record, at one of the previous hearings, I asked you to produce, or to have with you, figures relating to testimony which you gave at page 205 and following, of the record, with reference to certain expenses, receipts and sales by the "Pictorial Review," at Pittsburgh, Syracuse, Atlanta, Albany, Bridgeport, New Orleans and St. Louis.

A. Yes, sir.

Q. You have compiled those figures, have you?

A. Yes, I have.

Q. What was your expense at Pittsburgh for the month of April, 1917, and for the months of May, June, July and August, September and October?

A. They are itemized there.

Q. I want it on the record.

A. In May——

Q. April first.

A. In April it was $140.00; May, $420.21; June, $429.58; July, $166.24; August, $214.24; September, $145.17; October, $169.93; November, $165.31.

Q. Now, what do those expenses cover?

A. They cover rent, motor truck hire——

Q. Rent for what?

A. Rent for an office there, storing supplies and headquarters to do business; motor truck for a day or so each month to deliver; salary of the man at that point, and incidentals.

Q. How much is the rent at Pittsburgh?

A. I do not know exactly. I think it is about $15.00 or $18.00 a month I forget; it is a long while since I had that up.

Q. How much is the man's salary at Pittsburgh?

A. Twenty-five dollars a week.

Q. Is he still there?

A. He is still there.

Q. You are still renting the office?

A. Yes.

Q. How much of those expenses went for newspaper advertising?

A. None.

Q. You did not include any advertising in that?

A. No, we did not include any advertising in that.

Q. What were your sales for November, 1917, in the Pittsburgh section?

A. Two thousand six hundred and one copies.

Q. Now, on your direct examination, at page 206, you gave the total expenses from April to October, and the total income, and then you gave the net sales of 11,209 copies. You gave the total income at $836.71. You did not sell those 11,209 copies at 9¾ cents, did you?

A. No; those were billed out at eleven.

Q. What?

A. They were billed out at 11 cents.

Q. If they had been billed at eleven cents, your income would have been very much greater than $836.71, would it not?

A. Yes.

Q. Why was it not greater than that, then?

A. Because there were still outstanding accounts; I have just taken the actual money which came in.

Q. Oh. Now, you mean that there was still money due you for business in the Pittsburgh section conducted between April 15th and October 31st, 1917, which was not included in that figure of yours of $836.71?

A. Yes; that had not been collected.

Q. Then if all the money which was due you had been collected at that time, your figures would be very different, would they not?

A. I suppose so; I have not multiplied that.

Q. The difference would be that you would multiply 11,209 copies by 11 cents, and that result would take the place of the $836.71; is that correct?

A. Yes, sir.

Q. You have collected those amounts since, have you not?

A. We are collecting all the time, see.

Q. Have you collected since the amounts which were due for the Pittsburgh business between April and October?

A. I do not know whether we have collected it all or not. There are always some bad accounts.

Q. There are always some bad accounts?

A. In a local place like that.

Q. Then you do have losses from bad accounts at times?

A. Well, we will have them in Pittsburgh.

Q. Then when you used the expression that the figures at Pittsburgh showed a loss of $848.66 for that period, that really was not a correct statement, was it?

A. It was at that time; we had not collected all that money.

Q. But you did not mean that you had actually suffered a loss at that time?

A. We have spent that amount of money, and taken that amount in.

Q. But your accounts had not been determined to be bad accounts, had they?

A. No; they had not terminated there

Q. You are still collecting on a majority of them?

A. Yes; we still collect on a majority of them.

Q. Then you can say now that the statement that that period showed a loss of $848.66 is not correct today?

A. It might be changed by later figures, yes.

Q. Not "it might be changed." Is it not changed?

A. It depends on how much extra money has been collected there, and how much can be collected.

MR. WELCH: I ask you then to look up and obtain for me to be produced at another hearing, the amount of money which you have collected applicable to the Pittsburgh District for business done between April 15th, 1917, and October 31, 1917.

By MR. WELCH:

Q. You say that the 11,209 copies sold at 11 cents each?

A. Yes; they were all charged at 11 cents.

Q. Now, at page 207 of the record you testified about the expenses and the income and total sales at Syracuse from April 15th to October 31st, 1917, and I asked you for the details. What are the expenses, or what was the expense at Syracuse for April, 1917?

A. We had no expense in Syracuse until August.

Q. Until August?

A. Yes.

Q. What was the August expense?

A. Sixty-two dollars and fourteen cents.

Q. And the September expense?

A. Thirty-seven dollars and eighty-one cents.

Q. Those two made up the figure of $99.95 that you testified to?

A. Yes.

Q. What was the character of those expenses?

A. That was a man's time while he was there, his salary while he was in that city, and his motor truck and other incidental expenses he had toward making the deliveries.

Q. You mean by a man's time, the proportion of one of your traveling men's salary which you attributed to that?

A. Yes, the number of days.

Q. Which you attributed to Syracuse for the number of days he was there?

A. Yes, that is right.

Q. What was your expense for October, 1917?

A. Five dollars.

Q. And for November, 1917?

A. Five dollars.

Q. You gave the collections in that city, in Syracuse, of $216.18 during that period, and your total sales up to the September issue of 3246 copies. What did those copies sell for?

A. Nine and three-fourths cents.

Q. Three thousand two hundred and forty-six copies at 9¾ cents would make more than $216.18, which you say that you collected there, would it not?

A. It probably would.

Q. Are the same conditions, with reference to accounts still due you, for the Syracuse business, covering that period, true, that you testified to about Pittsburgh?

A. I do not think so at Syracuse.

Q. Had you collected all that was due you at Syracuse? When you gave the figure of $216.18?

A. You see there are always some accounts that

we are getting later than the month in which the magazines are sold.

Q. I understand, but at the time you gave the figures of $216.18 for collections from April to October 31st, at Syracuse, did that cover all of the business that you had there and all of the money which was due you there?

A. No; there was more money due.

Q. And that money has since come in?

A. Yes; some of it.

Q. Will you let me know how much has come in since then in your supplemental statement?

A. Yes.

Q. At page 208 of the record; in testifying about Syracuse, you testified as follows: "Instead of getting 9¾ cents we averaged 3½ cents per copy on the magazines we sold there." Do you wish to correct that statement?

A. That figure was based on the expenses deducted from that amount collected.

Q. I understand that, but you had not collected all the amounts due?

A. We had not collected all the amounts due.

Q. Therefore, when you did collect all the amounts due——

A. It would change that item.

Q. It would change that figure?

A. Not at that date, but it would change it in view of later collections.

Q. Your statement that you averaged 3½ cents per copy was based on the figures which were not at that time complete, is that a fact?

A. That is right.

Q. At page 208 and page 209, you gave figures with reference to Atlanta, Georgia, and I asked for the expenses for the separate months, the figures that you gave, covering a period from May to September issue

inclusive. What were your expenses at Atlanta for the months between April and November?

A. April, $161.54; May, $145.95; June, $130.30. There were no other expenses after that.

Q. That is, your expenses at Atlanta ceased with the June, 1917, expenses?

A. Yes.

Q. What was your November income there?

A. $117.34.

Q. And your November sales?

A. One thousand three hundred and forty-two copies.

Q. In giving your November income as $117.34, do you mean that as merely the money that you actually collected, or all the money that is due you there for your sales?

A. That was the amount of money which came in in the month of November from Atlanta.

Q. Came in during the month of November?

A. During the month of November.

Q. Do you mean to say that money that was earned during the month of November, has not come in since then; has not money which was earned during the month of November by the sale of the November issue, or the November sales there, come in since that time?

A. I could not tell, Mr. Walsh, whether this $117.34 covered the November issue or not, from this data I have here.

Q. Do not you see you have given figures here, in which you spoke of your losses during a month at a place and spoke of the price at which you sold your magazine, showing what your magazine netted you, based upon the difference between your expense and your income?

A. Up to a certain time.

Q. There is other income due in that section which

is applicable to the number of magazines which you sold there, is there not? Is not that true?

A. Well, I suppose there would be, in view of later figures.

Q. The November figure of $117.34 as your income does not represent all of the money which was earned in Atlanta, for the business done during the month of November, does it?

A. Not during the month of November, in any event; it was the income from there in November, but the November issue comes out in October.

Q. I understand that, but the sales take place in November?

A. No, they take place in October.

Q. When you give November under "Sales," what do you mean?

A. I mean of the November issue.

Q. Then you are giving the income from November of $117.34, and when you give under "Sales for November," 1342 you mean the sales in October?

A. I mean the sales during the period from October 10th to November 10th. That is the selling period of the November issue.

By Examiner Moore:

Q. Do the collections overlap?

A. Yes.

Q. So, in November you had some money which was due from the October issue as well as on the November issue?

A. They generally pay for one issue at a time, but there may be returns against other issues that are deductible; that takes some of the money away from that month, because they are making returns on previous issues.

Q. Then this expense is really not a true expense, but it represents the money collected during that month; the money that came during the month?

A. It represents the money collected during that month; the money that came during the month of November.

Q. Would it average up in a period?

A. Over a period of time it would average out; say——

By Mr. Walsh:

Q. It would only average up if your expenses continued as you started out with, which in most cases it would not?

A. No.

Q. Otherwise it would not average up?

A. We are speaking about the income as against the number of copies; not sales.

Q. In other words, the income that you have given there in your former testimony, cash received, at $296.97, for the period covered, does not include sums which were actually due at that time, but not paid, for business transactions during that period?

A. That is right; there were amounts due on issues that had gone before.

Q. No; not on issues which had gone before, but on the issues which were put out during that period.

A. Yes, during that period.

Q. Is not that right, during that period?

A. That is what I mean.

Q. Is it not a fact that there was still money due on the issues put out during that period?

A. I believe so.

Q. Which is not included in the figure of $296.97?

A. Naturally not; no, sir.

Q. You say that is correct?

A. That is correct.

Q. I want to ask another question about Atlanta: Did the figures of expenses which you gave for Atlanta for April, May and June, include any newspaper advertising?

A. No; none of the figures include newspaper advertising, Mr. Welch.

Q. Now, I want to ask you about Albany, which was testified to originally at page 209 of the record, where you gave certain figures with reference to your expenses, and money collected, and copies sold at Albany, for the period stated in your direct examination. Will you state the expenses for each month, from April to November, 1917.

A. June, $44.35; July, $45.85.

Q. And what were those expenses made up of?

A. Apportioning a man's time while in that city and his expenses while in that city.

Q. That is a portion of his regular salary?

A. Yes; if he was there three days, three days of his salary.

Q. During that time you sold, you stated, 3053 copies. At what price were those copies sold, do you know?

A. Nine and three-quarters cents.

Q. Nine and three-quarters cents for 3053 copies would amount to considerably more than $117.18, would it not?

A. Yes; the same condition would apply in Albany that applies in other cities.

Q. The same condition would apply in Albany as applies in other cities, which, as I understand it, is that when you give the money collected as $117.18, that it does not include all of the moneys which were due for the sale of the 3053 copies sold during that period?

A. Yes, you see that in the case of November there where the income is $86.60——

Q. Just answer my question, please. I want to get this question clear.

(Question read.)

A. Yes, that is right.

Q. You testified on your direct examination as a

result of those figures that you received an average, net, of less than one cent a copy, instead of 9¾ cents. Is it correct that during the period, for the copies sold, that you mention here, that the "Pictorial Review" received less than one cent a copy for the copies sold?

A. Well, at that time, at the time these figures were compiled for use here, the expenses were known and the amount for cash income was known up to that time, and the net sales, and that is how these figures were arrived at.

Q. You did not mean by that that as a permanent result of your business in Albany during that period you would receive less than one cent a copy for the copies you sold there, did you, when all your collections have been made?

A. When all the collections have been made it would be probably different. That is the way this thing stood at that time.

Q. Not probably would be different. It certainly would be very different, would it not, Mr. Mackinnon?

A. We hope so.

Q. Don't you know? Now we are talking about a period back in September, between April and September of last year. You must know whether you made collections there or not.

A. Oh, yes, we have made collections. We make collections right along.

Q. You have made all your collections in Albany, have you not?

A. I think we have.

Q. Is it not a fact that the statement that copies sold there would net less than one cent a copy would be changed and is changed by the figures which you now have?

A. Probably so, by the later figures; no question about that.

Q. Not probably so, but actually so.

A. I think it will actually show a difference.

Q. Did I understand you to say that none of the figures which you have given include newspaper advertising?

A. None whatever.

Q. How was your distribution made in Albany?

A. We made it with motor truck.

Q. Didn't you testify on your direct examination that you had to have distribution at Albany through the courtesy, so to speak, of some newspaper, if you had any?

A. That was later; that is when the expenses stopped.

Q. That was later, was it?

A. Yes.

Q. Is that your present arrangement?

A. Yes.

Q. Now, with reference to the expenses and income and sales at Bridgeport which you testified to at page 210, and as to which I asked you the detail, will you state what the expenses were each month between April and October, 1917?

A. April, $33.12; May, $33.15; June, $39.85; July, $18.50; August, $5.00; September, $5.00; October, $5.00.

Q. And those figures total $139.62, which you gave on your direct examination?

A. Yes, sir.

Q. As the expenses at Bridgeport during the period from April to October, inclusive?

A. Yes, sir.

Q. What was your expense for November, 1917?

A. Five dollars.

Q. What were those expenses which you gave generally made up of? The portion of the salary of the man as previously testified to by you?

A. Yes, sir; and motor-truck hire and things like that.

Q. You gave the amount of cash received at Bridgeport during that period as $205.99 and the copies sold at 2872. At what price were those copies sold?

A. Nine and three-quarters cents.

Q. So that the cash of $205.99 would not represent the amount of money actually due from the sale of those copies?

A. No.

Q. And the same observations apply as to money which was due from those copies not having been collected at that time as applied to the previous cities which we have been talking about?

A. Yes, sir.

Q. Have you collected the money due at Bridgeport, Connecticut, for the 2872 copies at 9¾ cents?

A. I think we have now, sir; yes, sir.

Q. You have collected it all, have you not?

A. I think so.

Q. Have you got the net sales for November at Bridgeport?

A. One thousand four hundred and fifty copies.

Q. In regard to New Orleans, as to which you testified at page 211 of the record, giving the expenses, income and sales, will you state the apportionment of those expenses between April and October, 1917?

A. April, $62.82; May, $94.85; no expenses after that.

Q. Those two figures make the total of $157.67 which you testified to as your expenses between April and October?

A. Yes, sir.

Q. What was your expense for November, 1917?

A. There was no expense in November.

Q. You sold during that period, from April to Oc-

tober, according to your testimony, 3007 copies. At what price were they sold?

A. Nine and three quarters cents.

Q. You testified that they showed an average of 2½ cents a copy instead of 9¾ cents. If you had collected all the money which was actually due you at the time for the sale of those copies that figure of 2½ cents which you gave would have been incorrect?

A. It would be slightly higher.

Q. It would be what?

A. It would be slightly higher.

Q. It would be a good deal higher, would it not?

A. I do not think so; 9¾ times 3000 copies.

Q. That would be the figure anyway.

A. And $157.67.

Q. Do those figures which you have given for April and May include any newspaper advertising?

A. None whatever.

Q. You did have distribution there through the newspapers there at first, did you not?

A. Yes, but I have not included that as a legitimate distribution expense.

Q. Now, the last one you gave was St. Louis, which you testified to at page 212 of the record, giving the expenses, cash received and copies sold between April and October, 1917. Will you state the expenses monthly from April to October.

A. April, $34.56; May, $50.82; none in June and none in July; August, $35.15; September, $10.00; October, $10.00; total, $140.53.

Q. Those being the expenses you referred to on your direct examination?

A. Yes, sir.

Q. What were they made up of largely?

A. Made up of a man's time and motor-truck hire and things like that.

Q. Do you still hire a motor truck there?

A. No; we are paying ten dollars a month toward the use of it.

Q. What was your November expense?

A. November expense $10.00.

Q. And the entire November expense was only $10.00?

A. Ten dollars; that is all we paid.

Q. What was your November income there?

A. Two hundred and twenty-seven dollars and nineteen cents.

Q. And that does not include all the amounts which are due for November business, though?

A. No.

Q. What were your November net sales?

A. Two thousand one hundred and forty-three copies.

Q. Referring to the 9539 copies which you say were sold at St. Louis between April and October, inclusive, 1917, you stated that they showed an average of 5.7 cents instead of 9¾ cents. What were those copies sold for?

A. Nine and three-quarters cents.

Q. So that the same correction would be made in that statement by you based upon the actual receipt of moneys due for the sale of those copies at a later period?

A. And disregarding the expense; yes.

Q. You have received all the moneys due at St. Louis from the sale of those copies, have you not?

A. Yes, sir.

Q. Mr. Mackinnon, in reference to your statement that a part of this expense which you testified to was made up of an apportionment of one of your employees' time while engaged in the particular cities, how many of those men were employed at that time?

A. There were about seven or eight men all over the country.

Q. And these men traveled all over the country, did they not?

A. Yes.

Q. And how long had you been employing seven or eight men?

A. Since February, I think.

Q. How many men had you employed prior to that for traveling over the country?

A. About four or five, I think.

Q. About four or five?

A. Four or five.

Q. So that these men, whose salaries, a portion of which you have attributed to these cities, were, in some cases, regular employees of yours, who were regularly and generally engaged in that business, going around?

A. No, they were traveling, but I would have to take them off their regular work and send them to the city to make their distribution.

Q. What was their regular work?

A. Their regular work was going to the various cities and seeing the wholesalers and getting accounts and doing all that sort of thing, promotion work, not distributing magazines; that is not their regular work.

Q. These men did not actually do the manual work, did they?

A. They were right on the wagons delivering the magazines themselves with the other men.

Q. They did not do that during all the time they were in the cities?

A. No; the days they were there.

Q. They were men regularly paid salaries by you, I suppose?

A. Yes.

Q. How many men do you employ now in the same character of service?

A. I think it is six or seven.

Q. Now, I asked you at page 433 of the record, to give me some further figures with reference to instances of cancellations of orders testified to by you at page 213, and following pages of the record, at Erie, Troy, Albany, Worcester, Providence, St. Louis and Kansas City. I understand you have made up the figures I asked for?

A. Yes.

Q. You testified that the Erie News Company, of Erie, Pennsylvania, originally ordered one thousand copies of the May issue, and that you got another man there as your distributor, and he ordered only three hundred copies; is that correct?

A. Something like that, yes.

Q. How many of those were actually sold?

A. One hundred and thirteen.

Q. How many were sold in June, at Erie?

A. One hundred and ninety-two.

Q. How many were ordered, if you know?

A. I have not got that. Those are the net sales.

Q. Those are the net sales. What were the net sales for July there?

A. Two hundred and forty-eight.

Q. For August?

A. Two hundred and seventy-nine.

Q. For September?

A. Two hundred and fifty-five.

Q. For October?

A. Three hundred and twenty-five.

Q. For November?

A. Five hundred and eighty-one.

Q. Now, the orders given for those months were considerably in excess of those actual net sales, were they not?

A. Oh, yes; that is the net sale out of the quantity sent.

Q. Now, you testified as to Troy, at page 213, that you had an order for 500 copies from Ramroth, and that he cancelled that order, and that new man that you obtained there as your distributor sent an order for 300 of the May issue. What was the number of sales at Troy for the May issue?

A. Three hundred and nineteen.

Q. And he sold more than he ordered?

A. Well, he undoubtedly got a re-order. His original order was 300.

Q. Will you give the sales at Troy for June, July, August, September, October and November?

A. Five hundred in June; 463 in July; 521 in August; 432 in September; 469 in October, and 533 in November.

Q. At Albany, New York, you testified at page 216, that you had an order for a thousand copies, and that you sent your own man there, and he only sold 276 copies. On the slip of paper which you have given me, you state the new wholesaler sold 624 copies of the May issue. Why, there is some error there, is there not?

A. Yes, I think that pattern agent's figure was not included, which we now have included.

Q. You now testify that the distributor that you established at Albany, or your man there, sold 624 copies for May.

A. Six hundred and twenty-four copies in May.

Q. Give the figures from June to November?

A. Seven hundred and twenty-two, June; 558, July; 530, August; 561, September; 539, October; 545, November.

Q. Who is your new wholesaler at Albany?

A. The man named McDuff, circulation manager of a newspaper.

Q. That is the same man who sold the May issue?

A. No.

Q. He is continued?

A. No.

Q. How long has he been in now?

A. He has been there since July, I think.

Q. At Worcester, Massachusetts, you testified, at page 217, that you had an order for 1200 copies. How was that order given to you, do you remember?

A. That was given verbally to the man there.

Q. You mean verbally to one of your traveling men?

A. Yes; to send 1200 copies.

Q. Do you know that Boland actually ordered 1200 copies or whether your man suggested that he should send 1200 copies?

A. No, that was—Boland; I suppose they talked it over, on what the Western News Company had been selling before that, and he placed his order on that basis.

Q. You testified that only 200 copies of the May issue were sold there. I see on the slip of paper you furnished me that you state that your new wholesaler sold 453 copies of May; is that correct?

A. Yes, including the pattern agents there.

Q. What do you mean, "including the pattern agents there?" Did not the 200 of the May issue which you originally testified about include sales by the pattern agents?

A. No, because we shipped them on account of not having a wholesaler there, direct to the store.

Q. What were the sales for Worcester, Massachusetts, in each month, June to November, 1917?

A. Seven hundred and one in June; 724, July; 632, August; 652, September; 475, October; 517, November.

Q. How about the sales which you testified to to the pattern agencies; do you send direct to them now?

A. Not where we have a wholesaler.

Q. Not where you have a wholesaler?

A. Not where we have a wholesaler, so in making

up these figures I thought it only fair to put in the quantity that if we had had a wholesaler we would include. For instance, if Boland had been handling our publication at Worcester, he would have delivered to the pattern agents, and when we said we sold two hundred and some odd copies, we did not include the pattern agents; I think we should have included the pattern agents.

Q. So when you speak of your new wholesaler having sold 453 in May, you think that is a correct figure as against the 200 that you previously gave?

A. Yes; because Boland would have supplied out of his 1200 copies the pattern agencies there.

Q. Now, at Providence, you testified at page 217, that you had an order for a thousand copies, and that the man you got there as your wholesaler handled about 500. How many copies were actually sold?

A. Five hundred and seventy-five in May.

Q. Will you give the figures from June to November, please, inclusive.

A. A thousand in June; 900, July; 800, August; 1500, September; 1130, October; 850, November.

Q. Did you have your newspaper arrangement at Providence before that or after that?

A. I think that was September, for October issues.

Q. Does that still continue?

A. No.

Q. Do you know?

A. Yes, we have a young fellow there now that is making a distribution.

Q. As a wholesaler?

A. Yes, as a wholesaler.

Q. Does he handle any newspapers?

A. No.

Q. Any other magazines?

A. I think he handles the street sales of some magazines there, or rather, some newspapers there, but it is a very unsatisfactory proposition.

MR. WELCH: I move to strike that out, "a very unsatisfactory proposition." I want it taken out, please.

EXAMINER MOORE: Motion granted.

By MR. WELCH:

Q. You testified, Mr. Mackinnon, that at St. Louis, Baron & Molasky had given a tentative order for 3200 copies, and that the distributor that you obtained there sold only 1800 copies for May.

A. Did I say sold, or took?

Q. Was able to dispose of only 1800 copies.

A. That was 1542 exactly.

Q. That is, you wish to correct that for May by the statement that the new wholesaler sold 1542 copies of the May issue?

A. Exactly, yes.

Q. And how many of the issues from June to November?

A. Fifteen hundred and sixty-two in June; 1805, July; 1893, August; 1834, September; 2538, October; 2230, November.

Q. Will you state again what you meant by the tentative order for 3200 copies?

A. He gave the order subject to the approval of the Curtis Company.

Q. How was that order given, verbally or in writing?

A. That was given verbally.

Q. To one of your traveling men?

A. Yes.

Q. Now, at Kansas City, page 218, you testified that the Katz News Company gave a tentative order for 2500 copies, and that you got another wholesaler

there and his order was only for a thousand copies of the May issue?

A. Yes.

Q. That was the correct amount of the sales by the other wholesaler that you got there?

A. Yes.

Q. What were the sales monthly from June to November, by the other wholesaler?

A. Fourteen hundred and forty-three, June; 1675, July; 1905, August; 1646, September; 2783, October; 2541, November.

Q. You have not any later figures on sales than November, for any of these cities, have you, with you?

A. Not here.

MR. WELCH: I think that is all, Mr. Daly, on those figures.

By MR. DALY:

Q. Now, Mr. Mackinnon, without going into this testimony again in detail, as I understand this first statement that you presented here, this statement which you testified to at the former hearing, there you simply gave the moneys received during each of these months regardless of the number of magazines sold during those months. Is that correct?

A. That is right.

Q. And that is the amount of money that you submitted here for those different months, there would probably be moneys for magazines sold in a prior month; could that be?

A. It was on the open account.

Q. That would run along all through this period?

A. Yes.

Q. Is it possible for you to get up a complete statement showing the exact situation as to these several months which you have testified about showing

the sales which you made during these months, and as to what moneys had been collected from these sales, and how much is not paid in from these sales?

A. Yes, sir.

Q. Can you give all of that?

A. Yes, sir.

Q. Now, you will produce that, will you, for a future hearing?

A. Yes, sir.

Q. And if any moneys are still due, will you show that?

A. Yes, sir.

Q. And show the exact situation about these particular sales?

A. Yes, sir.

Q. And if there is any loss, show it, and if there is any profit, show it?

A. Yes, sir.

Q. And further, will you produce how these expenses are arrived at which you have testified to today in each case?

A. Yes.

Q. Making a statement of that for the Commission, will you?

A. Yes, sir.

MR. DALY: Then we can see exactly just what you have done. This is not exactly a re-cross, Mr. Welch, but I want to ask another question or two.

By MR. DALY:

Q. You are familiar with "The Ladies' Home Journal," a publication called "The Ladies' Home Journal"; you have seen it and know about it, do you?

A. Yes, sir.

Q. What character of magazine is that?

A. That is a magazine designed for women, a magazine of fiction, special articles, Household Department, Fashion Department, embroidery and such.

Q. Do you know what magazines the Publishers' News Company published during 1911 and 1912?

MR. WELCH: I make the same objection.

MR. DALY: I do not mean that they publish, but I mean distributed.

MR. WELCH: I object on the same grounds as urged previously to the admission of the four letters offered in evidence this morning, that it relates to transactions prior to the passage of the Clayton Act, and is not an issue in this case.

MR. DALY: As we have said before, we think it is perfectly admissible. We have a right to show the character of the publications the Publishers' News Company distributes.

EXAMINER MOORE: At that time?

MR. DALY: At that time, yes, following these letters which have been put in evidence.

EXAMINER MOORE: The objection is overruled.

MR. WELCH: Exception.

EXAMINER MOORE: Exception noted.

By MR. DALY:

Q. Will you name the publications that they distribute?

A. "Delineator," "Designer," "New Idea," "Woman's Magazine," "Everybody's" and "Adventure."

Q. Will you describe the character of the "Delineator."

A. The "Delineator" was a woman's magazine, fiction, special articles, departments on household subjects, fashions, embroidery, and material of that sort.

By Mr. Welch:

Q. You were asked by Mr. Daly as to the character of certain magazines published by the Butterick Company.

A. I was.

Q. How are those magazines now distributed to the public and to the readers; through what agency?

A. The subscriptions, of course, go through the mail, and newsstands sales go through the American News Company.

Q. It is a fact, is it not, that the circulation of those magazines has increased since 1911?

A. I should not say that was true of "Everybody's."

Q. With the exception of "Everybody's"; the "Delineator," "Designer," "Adventure" and "Woman's Magazine," those circulations have increased?

A. I think they have. I would not be positive of that. It is very easy to ascertain that as a fact.

Q. Based upon your knowledge as a magazine man?

A. I think they have slightly.

Q. They are now distributed through the American News Company, you say?

A. Yes.

Mr. Welch: I offer in evidence Respondent's Exhibit No. 3 for identification.

Mr. Daly: No objection.

Examiner Moore: It may be received in evidence without objection.

(Respondent's Exhibit No. 3 for identification was received in evidence and marked "Respondent's Exhibit No. 3 in evidence" of this date, and is in words and figures as follows):

RESPONDENT'S EXHIBIT No. 3.

"THE PICTORIAL REVIEW COMPANY
214-226 West 39th Street
New York

Gentlemen:

For the last six months we have been sending out special offers to supply dealers with extra copies of Pictorial Review at 5c each, direct, transportation prepaid. Nearly every dealer has grabbed this opportunity and grabbed it quick to make a bunch of extra money by getting these copies prepaid for 5c each. For some reason or other, you have not been amongst these dealers.

Have our letters gone astray? We are inclined to think so or we would surely have heard from you. On the other hand, perhaps there may be some reason why you have not accepted our offers even though you have received them.

Now we would like to hear from you regarding this proposition: If you send us a standing order on Pictorial Review for December and later months, on a fully returnable, transportation-prepaid basis, we will give you 10 November copies free of charge—acually give them to you without cost, and all over ten copies at five cents each for that one issue.

We want you to see for yourself that it will pay you to buy Pictorial Review direct. The December issue is a wonder! It licks any Christmas number we've ever put out and you know that Christmas is always a big seller. Sign the enclosed acceptance blank and let us have it as soon as possible and we will guarantee to take good care of you.

Yours very truly,

B. A. MACKINNON
*Circulation Director.*"

By MR. WELCH:

Q. Mr. Mackinnon, was that circular sent out by you representing the "Pictorial Review"?

A. Yes, sir.

Q. And to what persons did that circular go?

A. To our wholesalers.

Q. About how many were sent out?

A. About 600.

MR. WELCH: I offer that in evidence.

MR. DALY: No objection.

EXAMINER MOORE: It may be received in evidence without objection.

(The letter of March 14th, 1917, was received in evidence and marked "Respondent's Exhibit No. 1" of this date, and is in words and figures as follows):

RESPONDENT'S EXHIBIT No. 1.

"THE PICTORIAL REVIEW COMPANY
The Pictorial Review Building
216-226 West 39th Street
New York

March 14, 1917.

YOU MEN HAVE DONE IT:

When I broke away from the News Company and started out to enlist the wholesalers for Pictorial Review I expected to encounter many difficulties, especially when I learned that I had been double-crossed and that the assurances of one large publisher were merely "a scrap of paper."

But, gentlemen, it has been a cinch! Once more we are proving that you can't keep a good magazine down. Everywhere we went Pictorial Review was received with open arms by red-blooded, live-wire wholesalers who realized the tremendous selling power of a magazine with a circulation of one million four hundred thousand

(1,400,000) copies monthly. Only one big publisher fought us, and without realizing it, helped us to put it across more quickly than we otherwise expected. You can't tell a real live American he must not do such-and-such a thing without starting a fight.

Here's my hand to every one of you. I cannot express how much I appreciate the way you rallied around me, the corking fine orders you have sent in and the generous spirit of co-operation you have shown from the start.

In my turn, I am showing you at a glance, herewith, the smashing big newspaper and magazine campaign we are putting behind your efforts on the next issue of Pictorial Review—the first you handle. That campaign should clean up every copy you get and make you holler for more.

Maybe after looking this over you'll want more. If so wire your revised order at once so we can shoot them along in time for publication day—April 10th—only a few weeks off, now.

Other publishers are watching Pictorial Review. Let's show them what the wholesalers of America can do when given a chance.

Go to it!

B. A. MACKINNON
*Circulation Director.*"

By MR. WELCH:

Q. Did you write and send that letter, Mr. Mackinnon?

A. Yes.

MR. WELCH: I offer that letter in evidence.

MR. DALY: No objections.

EXAMINER MOORE: It may be received in evidence without objection.

(The letter was received in evidence and marked "Respondent's Exhibit No. 2" of this date, and is in words and figures as follows):

RESPONDENT'S EXHIBIT No. 2.

"THE PICTORIAL REVIEW COMPANY.
The Pictorial Review Building,
216-226 West 39th Street,
New York.

May 2, 1917.

Mr. W. E. Shoudy,
208 E. Fayette St.,
Syracuse, N. Y

Dear Mr Shoudy:

I know you will be interested in the present situation between ourselves and the Curtis Company. As the result of our complaint, which we filed with the Federal Trade Commission at Washington, a Curtis representative called at the Federal Trade Commission on April 10 at their direction and pled ignorance of the law, saying they did not know they were violating section 3 of the Clayton Act and promised they would give no further opposition to "Pictorial Review" at the present time. And since that day their opposition, if expressed, has been expressed only verbally and very carefully.

We are not satisfied to allow the matter to remain there, however, as the fight we are making is as much for the wholesalers of the country as for ourselves and today we are proceeding with an injunction against the Curtis Company, returnable next Friday, restraining them permanently from interfering with the distributing of our magazine or any other magazine to wholesalers anywhere. The attorney we have in charge of the case is John B. Stanchfield, probably one of the best known attorneys in the United States on matters of this sort.

There isn't a particle of doubt that Curtis will put up any opposition to your handling the June number or other issues and if they do I wish you would wire me at once, as in that event they would be in contempt of court. There isn't a chance in the world, however, of their making a move of this sort. We are shipping your June copies as usual.

Sincerely,

B. A. MACKINNON,
*Circulation Director.*"

By MR. WELCH:

Q. I show you a letter to Mr. Wood Mansee, in the same form as several previous letters, which were sent out by you, and ask you if that was written and sent out by you?

A. Yes, sir.

MR. WELCH: I offer that letter in evidence.

MR. DALY: No objection.

EXAMINER MOORE: It may be received in evidence without objection.

(The letter was received in evidence and marked "Respondent's Exhibit No. 3" of this date, and is in words and figure as follows:)

RESPONDENT'S EXHIBIT, No. 3.

"THE PICTORIAL REVIEW COMPANY,
The Pictorial Review Building,
216-226 West 39th Street,
New York.

Jan. 23, 1917.

Lee W. Woodmansee,
Spokane, Wash.
Dear Sir:

We are now ready to supply you directly with such copies of Pictorial Review as you can sell through boys and to our own local Pictorial Review pattern agencies. We cannot permit you to sell these copies to dealers who are now supplied by The American News

Company or its branches and any attempt on your part to do so will mean that this arrangement must be discontinued. *Please keep this fact in mind.*

Our pattern agencies in your city are Kemp & Hebert, Main Ave. & Wash St., & The Emporium Dry Goods Co., Cor. Main Ave. & Wall St.

We supply these stores with copies at eleven cents per copy plus transportation costs, which means about one cent per copy extra. You can supply them at eleven cents and this saving of one cent per copy should get you the order.

Our price to you on Pictorial Review will be 9¾ cents per copy, delivered, strictly non-returnable, but in place of a return privilege we will allow you a discount of 10% off the face of your bill for cash with order which means that Pictorial Review will cost you about 8¾ cents per copy if you clean up each month as you can easily do on the kind of magazine we are producing right now.

We publish on the 10th of each month and your order should be in our hands not later than the 25th of the preceding month to insure early delivery.

The March number is a corker. It has a "kid" cover and you know what that means. And right now this Kathleen Norris serial is booming things. So you have a live one to keep step with. Your boys should do a corking business and these pattern agencies should surely sell more than for February.

Let's have your order by return mail.

I trust this is just a small beginning of a long and pleasant close business relationship.

Yours very truly,

B. A. Mackinnon,
*Circulation Director.*"

Mr. Daly: The right is reserved to introduce copies of any magazines we think proper.

MR. WELCH: That is subject to proper objection.

MR. DALY: Subject to proper objection by the respondent's counsel.

With the exception of the statement that Mr. Mackinnon is to produce at some future time and the possibility of the question as to these magazines, the evidence of the Commission is presented. We are through with our testimony and we would like the next hearing to be fixed for the 15th of March, if satisfactory to the Examiner.

MR. WELCH: The respondent, with respect to that date, has already stated to Mr. Daly and to Mr. Spiess and wishes to state now, that that date will not give us sufficient time to properly complete the very extended investigation we are now having made throughout the country, and that we will not be ready to proceed at that time, and if such a date be now fixed, I ask that it be tentative, and that we have the privilege of applying, as I understand we of course will have, to the Commission for a postponement beyond that, of possibly two weeks, so that we may have an opportunity to properly compile all of our data and material, which I will say has to be collected from all over the country, to put in our defense, and to make our defense.

EXAMINER MOORE: Then the hearing will be set for March 15th, subject to your taking the matter up with the Commission for a further postponement, the hour and place to be determined by counsel.

MR. WELCH: Do I understand the Commission has rested its case?

MR. DALY: Yes, with the exception of the reservations made on the record.

(Whereupon, at 1.15 o'clock P. M. on the 27th day of February, 1918, the hearing in the above-entitled matter was adjourned to March 15th, 1918, at an hour and place to be determined by counsel.)

Last Commission's Exhibit No. 188.

Last respondent's exhibit No. —.

---

BEFORE THE FEDERAL TRADE COMMISSION.

*The Federal Trade Commission,*
v.
*The Curtis Publishing Company.*
} Docket No. 15.

Room 337, Old Post Office Building,
Park Row, New York City, N. Y.,
Tuesday, April 16, 1918.

The hearings in the above-entitled matter were resumed at 11.00 o'clock A. M., pursuant to notice.

Before: EXAMINER CHARLES S. MOORE.

Appearances: MESSRS. A. M. DALY and L. A. SPIESS, on behalf of the Commission, and JOSEPH W. WELCH, ESQ., and JOHN G. MILBURN, JR., ESQ., on behalf of the Curtis Publishing Company.

PROCEEDINGS.

EXAMINER MOORE: Proceed, gentlemen.

MR. WELCH: Now, I understand that Mr. Daly wants to ask some questions of Mr. Douglas.

EXAMINER MOORE: Do you desire to call Mr. Douglas, Mr. Daly?

MR. DALY: Not just yet, Mr. Examiner. I want to do something else.

Since the opening of the proceedings, and since the final adjournment—since the adjourn-

ment in New York the other day—an amended complaint has been filed by the Commission, and an agreement has been made by counsel on both sides, that the record, in so far as it is applicable to the amended complaint, will be stipulated in these proceedings. Is that correct, Mr. Welch—that a formal stipulation will be prepared and entered into and filed later in these proceedings?

MR. WELCH: That is correct.

EXAMINER MOORE: Is that satisfactory?

MR. WELCH: We will enter into a formal stipulation and file it stating the precise matters covered.

MR. DALY: It is also understood that waiver of all of the provisions of the statute with reference to service and notice, of Section 5 of the Federal Trade Commission Act will be made by counsel on the other side. I think that is correct.

MR. WELCH: That is correct.

MR. DALY: And a formal waiver will be prepared and executed and filed later in the proceedings and that an answer will be filed by counsel for the respondents.

EXAMINER MOORE: The case will proceed with that understanding.

MR. DALY: Will Mr. Douglas take the stand for a few minutes?

---

M. E. DOUGLAS was called as a witness on behalf of the Commission, and being duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Mr. Douglas, you are the circulating manager of the Curtis Publishing Company, are you not?

A. Manager of the sales division.

Q. And you reside in Philadelphia?

A. Woodbury, New Jersey.

Q. Now, an amended complaint, Mr. Douglas, has been filed in this case with reference to another sort of contract under which you have begun to operate, or have been operating for some time. Do you know about that contract of your company?

A. Yes, sir.

Q. I show you a paper called the district agent's agreement. Will you look at that? (Handing paper to witness.)

A. Yes, sir.

Q. Is that the contract?

A. That is the contract.

Q. Which you have been putting in lately with your agents?

A. Yes, sir.

MR. WELCH: Is that JDA8?

MR. DALY: Yes. We offer this contract.

(The paper referred to was thereupon received in evidence and marked by the stenographer "Commission's Exhibit No. 189," and the same is as follows:)

COMMISSION'S EXHIBIT No. 189.

"DISTRICT AGENCY CONTRACT.

Form JDA8.

AGREEMENT, dated ....., 19.., between the Curtis Publishing Company (hereinafter called the Publisher) and ..... (hereinafter called the District Agent).

WITNESSETH, That the District Agent is hereby appointed agent for the sale of the following publications of the Publisher, viz: The Ladies' Home Journal, The Saturday Evening Post and the Country Gentleman, for

the following territory, viz: ....., upon the following terms and conditions:

*Territory Consignments.*

1. Commencing with the issues of The Saturday Evening Post and The Country Gentleman dated ..... and with The Ladies' Home Journal for the month of ..... or with later issues at the Publisher's option, the Publisher will supply and consign to the agent such stock of the above publications as the Publisher finds the District Agent requires from time to time, provided the requisitions therefor are sent by the District Agent according to the schedule issued by the Publisher, at times sufficiently in advance of publication to effect the proper delivery thereof, and provided such requisitions specifying the desired number of copies of each publication, are sent upon the printed requisitions blanks of the Publisher, and provided the District Agent has faithfully and punctually kept, up to the time of each requisition, the terms and conditions of this agreement. The title of said publications shall remain with the Publisher until they are sold by the District Agent. The said publications are to be forwarded by the Publisher to the District Agent (transportation charges prepaid) by mail, express or freight, at the option of the Publisher, at times intended to effect delivery to the District Agent one day

before the authorized publication dates as fixed from time to time by the Publisher.

*Selling Prices.*

2. The District Agent will supply to boys and dealers of The Saturday Evening Post and of The Country Gentleman at the net wholesale rate of three cents (3c.) a copy for sale at five cents (5c.) a copy, and copies of The Ladies' Home Journal at eleven cents (11c.) a copy for sale at fifteen cents (15c.) a copy, and will make deliveries of each of the said publications early on the morning of the authorized publication day thereof. All retail sales made by the District Agent shall be only at the prices of five cents (5c.) a copy for The Saturday Evening Post and for The Country Gentleman, and fifteen cents (15c.) a copy for The Ladies' Home Journal. All sales must be for cash or at the risk of the District Agent.

*Sales Promotion.*

3. The District Agent agrees that he will at his own expense provide a suitable place and appliances for the sale and the distribution of the said publications; that he will use all reasonable efforts and devote the necessary time for promoting the sale of said publications and supplying the demand therefor; that without the written consent of the Publisher he will not display, deliver or sell any copies of any one of said publications before the authorized publication date as specified in the printed requisition

*Premature Sales.*

*Trespassing.*

blanks, or dispose of any copies of said publications in the territory of any other District Agent or Special Agent of the Publisher, or act as Agent or Special Agent for or supply at wholesale rates any periodicals other than those published by the Publisher, or directly or indirectly furnish to any other publisher or agent the names and addresses of the persons to whom the Publisher's publications are sold or delivered, or allow any one to stamp, paste or otherwise place on or in any of the Publisher's publications or any part thereof any advertising matter, except that he may stamp his name as agent thereon and may insert the single-copy sale of the said publications.

*Other Periodicals.*

*Imprints.*

*Inserts.*

*Training Boys.*

4. The District Agent shall, subject to the direction and the control of the Publisher, train, instruct and supervise such adequate force of boys within his district as has been or shall be organized by or under the instructions of the Publisher for the purpose of distributing the said publications.

*Commissions.*

5. The Publisher will allow the District Agent as compensation the folowing Commissions:

(a) On copies supplied to boys and dealers at the rates hereinbefore specified, a commission of one-half cent (½c.) on each copy of The Saturday Evening Post, and one and one-quarter cents (1¼c.) on each copy of

The Ladies' Home Journal, and on each copy of The Country Gentleman until June 29, 1918, one cent (1c.)—thereafter one half (½c.).

(b) On sales made at retail, a commission of two and one-half cents (2½c.) on each copy of The Saturday Evening Post, and five and one-quarter cents (5¼c.) on each copy of The Ladies' Home Journal and on each copy of The Country Gentleman until June 29, 1918, three cents (3c.)—thereafter, two and one-half cents (2½c.); provided that said commissions shall be deemed earned and payable only as to such copies as to which punctual and accurate reports are made by him in acordance with this agreement.

*Returns.*

6. The District Agent will return to the Publisher the cover pages or headings of all unsold copies of said publications, as a voucher that said copies remain unsold, and all copies of which such returns shall not have been delivered to the Publisher within twenty-one days in the case of The Saturday Evening Post and of The County Gentleman and within fifty days in the case of The Ladies' Home Journal, counting from the authorized publication dates, shall be conclusively presumed to have been sold by the District Agent and on that basis shall be separately accounted for not later than the last of the said twenty-one days or fifty days, respectively.

*Lost Copies.*

In case of loss (not including loss by theft) of any copies without negligence on the part of the District Agent or his employes, the District Agent may forward to the Publisher proof of such loss by affidavits setting forth in detail the circumstances and mailed to the Publisher within said twenty-one days or fifty days from the authorized publication dates, and if such proof is satisfactory to the Publisher such lost copies shall be treated as returned unsold copies.

*Copy Requisitions.*

7. The District Agent agrees to mail his requisitions weekly and to send with each requisition except the first, and upon blanks furnished by the Publisher, a report itemizing by names and addresses of retailers both the number of copies of each publication in the consignments previously sold by the District Agent either directly at retail or to boys and dealers, and the number of copies unsold, together with a check or money order for the amount of such sales less his commissions, and for the amount due on any separate accounting for copies not reported as sold or returned but as to which no unsold copies, cover pages or headings shall have been returned within the time limited in Paragraph 6 hereof. The District Agent shall not be entitled to credit for returns before their receipt by the Publisher unless after authorization as lost

*Sales Reports*

*Settlements.*

copies. Within a week after the authorized publication dates of the publications included in the final requisition sent under this agreement, the District Agent shall send a similar report of the sales of the publications included in said requisition with a check or money order for the amount thereof less commissions. And the District Agent agrees to distribute prize vouchers to boys and dealers according to instructions from the Publisher, provided that prize vouchers shall not be redeemable by the District Agent nor by his relatives or salaried employes.

*Prize Vouchers.*

*Telegrams.*

8. The District Agent agrees to pay any collect charges for a telegram not exceeding ten words from the Publisher concerning any settlement more than a day overdue, and to send collect to the Publisher a telegram of a length not exceeding ten words to trace any consignment of one hundred or more copies not received on or before the first day train on the authorized publication date, provided the District Agent has fully complied with the conditions of this agreement.

*Net Sales.*

9. The District Agent agrees that during the continuance of this agreement he will sell at least ..... copies of each issue of The Saturday Evening Post, at least ..... copies of each issue of The Ladies' Home Journal and at least ..... copies

of each issue of The Country Gentleman.

*Termination.* 10. This agreement shall not become binding on the Publisher until the Publisher has ratified it in writing at the Home Office in Philadelphia. It shall be for the term of ..... from the date of such ratification unless otherwise terminated under its provisions and shall continue thereafter from year to year unless otherwise so terminated. Unless either party gives to the other thirty days' notice prior to the termination of the ..... or any subsequent year, the agreement shall continue for another year, and so on from year to year.

*By the Publisher.* 11. In case of war, embargo, strike, fire, flood, earthquake, change in the postal rates or in the retail price of any one of the said publications or in case of breach by the District Agent of any of his obligations, or guarantees hereunder, the Publisher may terminate without notice. The Publisher may also terminate on thirty days' prevous notice given to the District Agent.

*By the Agent.* 12. The District Agent may terminate at any time by giving thirty days' notice by mail to the Publisher prior to such termination, provided he obtains a successor satisfactory to the Publisher and forwards the successor's acceptance of an agreement in form similar to this agreement, to-

gether with the successor's cash security, and provided further that the District Agent will give to such successor a written agreement not to deal at wholesale in any of the said three publications in said agency territory for a period of thirty days from the date of ratification of such transfer of the agency.

*Cash Security.*

13. In consideration of this agreement of employment the District Agent will deposit with the Publisher on or before the date of his first requisition hereunder, the sum of $.....

*Interest.*

On said sum, until the termination of the agency, the Publisher shall allow and pay the District Agent annual interest at the rate of five per cent. per annum. At the termination of the agency, if the District Agent shall have faithfully performed all the conditions and guarantees of this agreement, the Publisher will return to him said sum with all unpaid interest thereon. If the District Agent shall not have kept all the several conditions, stipulations and guarantees by him to be performed, this sum may be retained by the Publisher as liquidated damages, but its retention shall not deprive the Publisher of any other remedy for such breach. Failure of the Publisher to enforce any rights in case of one or more defaults of the District Agent shall not be waiver of such rights or of any subsequent defaults.

Executed by the Parties hereto the day and year first above written.

The Curtis Publishing Company,

.....

(By Representative).

.....

(The District Agent)

.....

(Street Address)

Note: If the intending agent is a minor, a parent or guardian must sign as District Agent.

NOTICE TO THE INTENDING DISTRICT AGENT.

A sound business policy requires that we agree in advance upon terms to which each of us shall adhere.

Before you sign as our agent you are strongly urged to obtain a thorough understanding of each clause of this agreement, and of the mailing schedule and of the printed Requisition and Settlement Blanks of the Publisher.

No other than an officer of the Publisher is empowered to modify or alter in any detail the terms of either this agreement or the Publisher's requisition and Settlement Blank. No Branch Manager, Traveling Representative or other field worker has such authority. It is understood that your acceptance of this agreement is given only in consideration of the commissions and the privileges detailed in the

agreement, not because of any additional verbal or other promises made by any persons whomsoever.

Before you sign, understand that this agreement places upon us no obligation to divert to you the orders of any dealers who may prefer to obtain copies of the Curtis Publications from the American News Company or any one of its branches, nor of certain Railway News Companies who may now be obtaining copies directly from our Home Office or one of our Branch Offices, and that this agreement does not contemplate our terminating the activities of any subscription representative who may now be soliciting or who may hereafter solicit in your city.

This agreement is offered to you by us only because we believe you are qualified to act as agent for the territory. It is understood that by accepting the agreement you signify your intention of devoting your own time and personal attention to the conduct of the agency and that you will not lease, sublet or transfer the management of the agency to another in any way except as stipulated in the agreement. Our ratification of the proposed agreement will not authorize you to barter or sell the agency; it will give you only the rights specified in the agreement—no more.

The agreement will become binding upon us when received and rati-

fied in writing at our Home Office—not before.

THE CURTIS PUBLISHING COMPANY,
Sales Division, Circulation Department,
Philadelphia, Pennsylvania.

---

DISTRICT AGENCY AGREEMENT.
Form JDA8.

.....
Name of Agent.
By .....
Agent's Representative.
Territory .....
.....
Street .....
City .....
State .....
Date of Ratification .....
.....
By .....
Publisher's Representative."

By MR. DALY:

Q. How long have you been using this form of contract?

A. Since about the first of November.

Q. And this is the form which you are generally putting in now?

A. Yes, sir.

Q. And have been during that period?

A. Yes, sir.

Q. Since November, 1917?

A. Yes, sir.

Q. Now, in the record, there were a number of gentlemen who testified to the effect that they had been under another form of contract with your company.

Are you, in any case, using this contract with these same witnesses in this case, who have already testified?

A. I think we have in some instances.

By Mr. Daly:

Q. How long have you been using this form of contract?

A. Since about the first of November.

Q. And this is the form which you are generally putting in now?

A. Yes, sir.

Q. And have been during that period?

A. Yes, sir.

Q. Since November, 1917?

A. Yes, sir.

Q. Now, in the record, there were a number of gentlemen who testified to the effect that they had been under another form of contract with your company. Are you, in any case, using this contract with these same witnesses in this case, who have already testified?

A. I think we have in some instances.

Mr. Welch: What is that, Mr. Douglas?

The Witness: I think we have in some cases.

By Mr. Daly:

Q. Can you furnish the Commission with a complete statement as to that?

A. Yes, sir; I will do so.

Q. As to the persons with whom you have made this contract?

A. Yes, sir—You refer, as I understand it, to those who have been called as witnesses?

Q. I am referring to them now.

A. Yes, sir.

Q. You have already furnished the Commission, Mr. Douglas, or your company has, with a statement showing the number of contracts until February 18, of this year. Do you know about that?

A. Up to about that time; yes, sir.

Q. Could you furnish a complete statement up to date?

A. Yes, sir.

Q. Showing all about the introduction of this contract, with whom they are made, etcetera?

A. Yes, sir.

Q. You could furnish such a statement, Mr. Douglas?

A. Yes, sir.

Q. Would it take any particular time to prepare the statement?

A. It would take the time to type it and to check it to see which are under that form and which are not.

Q. Could you furnish for the Commission, Mr. Douglas, along with the statement that I have asked you to make in cases where changes have been made from the old contract, to the new, the circulation of the different papers or rather the number of copies—where the agents have been changed, the number of copies handled by the old agents and the number of copies handled by the new agents in that same community—could you get me that information readily?

A. I think we could do that, but that might take a little longer time.

Q. If you will add that to the statement, we will be obliged.

A. Very well.

Q. In making these new agencies, have you in any case put them on a salary or not?

A. There might be a few with whom we have made bonus offers.

Q. What do you mean by "bonus offers"?

A. A stipulation to pay them something extra in the event of their selling certain numbers indicated.

MR. WELCH: You were asking about salaries?

MR. DALY: I am asking you about salaries.

By Mr. Daly:

Q. Are you putting in these new agents, in making these changes from one contract to another, if you know? Can you state whether it has been necessary—whether you have put any of these new men on salaries?

A. In a few cases only, and only as stated.

Q. Well, as stated, you mean the bonus proposition?

A. The cases referred to, we had in a few cases agreed to make certain payments, upon condition that the agents' sales were up to certain numbers indicated by us.

Q. Then in no case have you put them on plain salary; is that what you say?

A. As far as I recall, the way I stated.

Q. Have you increased the bonds?

A. Yes, sir.

Q. Can you show in your statement as to those increases—the difference between the old bond and the new?

A. Yes; that will take a little more time also.

Q. I wish you would do that?

A. Yes.

Q. In the event that any of these new agents that we are speaking about did not come up to the requirements of this contract, would you in any way reimburse them—pay them anything additional? In the event their sales dropped off and did not come up to the quota set out in this contract, what would you do? What arrangements have you made with reference to that, if you have made any?

A. I have not read the exact letters sent to those agents, but I think the arrangements are substantially as I have stated.

Q. You will look into that, will you?

A. I will look into that.

Q. And give us that information?

A. All right.

MR. DALY: As far as we know now, Mr. Welch, that is all that we want from Mr. Douglas.

CROSS-EXAMINATION.

By MR. WELCH:

Q. Mr. Douglas, approximately how many of the District Agency agreements, Commission's Exhibit No. 189, have you adopted with your various agents?

A. Between 950 and a thousand agents, under that form now.

Q. Now, has there been an order blank adopted, for use under the District Agency Agreement, Commission's Exhibit No. 189, any different from the original order blank that was put in evidence.

A. That is Form 8 you refer to? Yes, the new order blank.

Q. Have you one of the new order blanks with you?

A. I have not one, no.

Q. Do you have one here.

A. No; I have not.

Q. Will you produce one of those?

A. Yes, sir.

MR. WELCH: Do it as soon as you can, and we will offer that in evidence.

MR. DALY: We have no objection to that order blank going in. You can mark it now, if you desire to put it in.

By MR. WELCH:

Q. Mr Douglas, will you state what the facts were that led up to the adoption by the respondent of the form of contract, JDA8, Commission's Exhibit No. 189?

A. Well, we had always supposed and intended

that these district agents were agents, and not mere purchasers. We had called them district agents. Our relations with them had been very close. We had exercised close supervision over them. They enjoyed many benefits that mere purchasers from manufacturers don't enjoy. Then when complaint was made to the Federal Trade Commission, it appeared that the Commission regarded the contract as more in the nature of a sales contract, instead of a contract establishing, as we supposed, the relation of principal and agent, and while that matter was under advisement, before the Federal Trade Commission, in May, 1917, the "Pictorial Review" Company applied to the United States District Court for an injunction, to restrain us from enforcing that contract.

MR. DALY: Well, Mr. Welch, I do not think that you ought to go into that.

MR. WELCH: Now, Mr. Daly, I would like to state that they have put in, under an amended complaint, a new form of agreement, and I insist that we have the right to show the facts that led up to that agreement, and these are all part of the facts that led up to it.

MR. DALY: We have no objection to getting the actual facts that are necessary for this respondent's case, Mr. Examiner, but we think he ought to confine it within some reason, and not go into private litigations.

MR. WELCH: It is part of the reason that led up to putting in the contract.

MR. DALY: Well, go ahead with it, except do not go into the details of the suit.

MR. WELCH: He is not going into the details of the suit.

THE WITNESS: As I stated, subsequently, while the matter was under advisement before the Trade Commission, an application for an injunction was

made by the "Pictorial Review" Company, before the United States District Court, to restrain us from enforcing the other contract, and in due time this came on for argument, and Judge Hand finally rendered a decision, in effect, that while in form the preceding contract seemed to appear to be in form a sales contract, yet, that the operations under it and the effect of it were substantially that of an agency agreement. Therefore, in order to make the form of the contract comply with that interpretation and with our original intent and purpose, we put in this new form, in order that we might have a contract in form, as well as in substance, corresponding with that decision.

By MR. WELCH:

Q. And corresponding with what you considered the true relations?

A. Previous intent and purpose.

MR. DALY: Read what he said about that.

(The foregoing answer of the witness was repeated by the stenographer as above recorded.)

By MR. WELCH:

Q. You had considered the question of the form of the contract after the matter was first brought to your attention by the Federal Trade Commission, had you not?

A. Yes, sir.

Q. Do you remember when that date was?

A. Probably in April. I think it was early in April.

MR. DALY: It was in the spring.

MR. SPIESS: It was laid before the Commission around April 5.

EXAMINER MOORE: What year?

MR. WELCH: 1917.

By MR. WELCH:

Q. Mr. Douglas, in putting into effect this new form of contract—District Agency Agreement J. D. A. 8—with such old district agents as are now operating under it, will you state whether the agents were, in every instance, free to act as they wished in the matter?

A. Positively free.

Q. The amended complaint charges that the distributors were required to agree to handle and distribute the periodicals of the respondents as agents. Was there any compulsion whatsoever or any pressure brought to bear on any of these agents?

A. No, sir.

Q. They were left entirely free to adopt or not, as they saw fit, the new form of contract?

A. They could take it or not, as they saw fit.

MR. DALY: Mr. Welch, I did not go into that. Are you not making him your own witness in going into that? Can you not bring that out on direct? I think that ought to be stricken out, as I only asked about the contracts and where they were, etc.

MR. WELCH: But this is cross-examination on this contract, and I assume we had better clean it up now.

MR. DALY: I ask that that question and answer be stricken out. That is a matter that can be gone into in the defense.

EXAMINER MOORE: Have you any objection to striking out this matter?

MR. WELCH: Not on the ground it is not proper cross-examination. We will ask it on direct examination.

EXAMINER MOORE: The motion is granted.

By MR. WELCH:

Q. You were asked about the bonds under the new form of contract, and you said that the bonds had been increased in many instances?

A. Yes, sir.

Q. What was the reason for the increase in the bonds where an increase was made?

A. The risk was greater.

Q. In what respect?

MR. DALY: What was that—I did not understand that.

THE WITNESS: The risk is greater in respect, for instance, to settlements.

By MR. WELCH:

Q. How is the amount of the bond arrived at under the new district agency agreement?

A. The amount was arrived at generally by making the amount of the bond proportionate to the risk. I am speaking of the increases.

MR. DALY: What is that answer, Mr. Stenographer?

(The stenographer repeated the answer.)

Q. In what respect was the risk greater—what do you mean by that, Mr. Douglas?

A. Under that form, the agent makes settlement after he has received and distributed the copies. Under the other form, he made his settlements in advance.

MR. WELCH: That is all, Mr. Douglas.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. Just one more question, Mr. Douglas. As I understand, from your statement to Mr. Welch, you made the bond proportionate to the risk?

A. Generally speaking.

Q. That is, if I understand you correctly, according to the number of copies the man handled before, and under the new agency—is that the way you arrive at it—the amount of money——

A. Under the other form, the settlements were due

to reach us before we shipped the copies. Under this form, the settlement is due after he has received and distributed them.

Q. As a matter of fact, is that the way this business is carried on under this new contract—do these men wait until they have collected their money, or do they not send in their check immediately after receiving the copies?

A. Under this form the settlement is made after they have received and distributed the copies.

MR. WELCH: He is asking as a matter of fact.

By MR. DALY:

Q. As a matter of fact, does it operate that way? Do they not, as a matter of fact, send in their returns upon receipt of the copies?

A. Well, if any agent has so sent, he has elected to do so on his own motion.

Q. Is that the practical operation of this business under this contract?

A. I have not had called to my attention an instance of that sort.

Q. Will you inquire into that for me when you get up your statement?

A. I shall be glad to do that.

Q. I should like to know that. That is all.

RE-CROSS-EXAMINATION.

By MR. WELCH:

Q. In respect to what Mr. Daly just asked you about these district agency agreements, these district agents are not required or expected to make any remittances in advance, are they?

A. No, sir.

Q. And if they do it it is of their own volition?

A. Yes, sir.

Q. And as far as you know, the practice under

the new contract is for the agents to pay after they have received and sold their copies?

A. Yes, sir.

Q. And you will furnish a statement of any other practice that exists?

A. Yes, sir.

By MR. DALY:

Q. This is a cash bond, is it, Mr. Douglas?

A. In most cases—not in all.

Q. In what cases is it not a cash bond? I do not mean the particular cases. When do you require the other kind of bond?

A. Under certain circumstances we will accept a fidelity bond as part of the security.

Q. Most of them are cash bonds, are they not?

A. Yes, sir.

Q. And the others would be rare cases?

A. Yes, sir.

Q. Is that true or not?

A. Comparatively speaking; yes, sir.

Q. It is a cash deposit, the same as in the other contract.

A. They send cash.

MR. DALY: That is all.

MR. WELCH: That is all.

---

MR. DALY: With the exception of these reservations which have been made, the Commission's testimony is now in.

MR. WELCH: On behalf of the respondent, I desire to note an exception to the order of March 12th, 1918, by the Commission, striking out from the respondent's answer the further answer to the complaint set forth in said order, and we desire to preserve all our rights to object to this order under this exception.

EXAMINER MOORE: The exception will be noted.

MR. WELCH: On behalf of the respondent, we move to dismiss this proceeding on the ground that the Commission has failed to prove the allegations of the complaint and the amended complaint, and has failed to show any violation by the respondent of section 5 of the Act of September 26th, 1914, or section 3 of the Act of October 15, 1915. I presume that motion will be submitted—

EXAMINER MOORE: The motion will be noted in the record and considered by the Commission at another time.

MR. WELCH: Have you anything, Mr. Daly?

MR. DALY: I have not made it clear that I wanted to ask Mr. Douglas more about these contracts when they are produced—when the statement is prepared in reference to these new agents that I asked for this morning. Of course I reserve all my rights along that line.

MR. WELCH: All right, Mr. Daly; that is quite understood.

EXAMINER MOORE: The case will proceed with that understanding.

TESTIMONY ON BEHALF OF THE RESPONDENTS.

MR. WELCH: Now, Mr. Douglas, will you take the stand, please.

---

M. E. DOUGLAS was called as a witness on behalf of the respondent, and being duly sworn by the Examiner, testified as follows:

DIRECT-EXAMINATION.

By MR. WELCH:

Q. What is your position with the Curtis Publishing Company, respondent in this case?

A. Manager of the sales division of the circulating department.

Q. How long have you been manager of the sales division?

A. Since before there was any sales division.

Q. How many years back?

A. Eighteen years, about.

Q. How long have you been connected with the Curtis Publishing Company?

A. Nineteen years, approximately.

Q. Did you state where you lived, Mr. Douglas?

A. Woodbury, New Jersey.

Q. Where is the principal place of business of the Curtis Publishing Company?

A. Philadelphia, Pennsylvania.

Q. State what experience you have had, in a general way, with the distribution and sale of magazines and periodicals?

A. I have had experience in minor positions, as road man, subscription solicitor and as supervisor of subscription agents in the home office, and from the beginning I have had experience in charge of the distribution of our copies, through sales agents generally.

Q. As a result of your eight years' experience with the Curtis Publishing Company, are you familiar with the conditions respecting the wholesale distribution of magazines and periodicals?

A. I am.

Q. When was the Curtis Publishing Company founded?

A. 1883.

Q. What magazines does it publish at the present time?

A. "Ladies' Home Journal," "Saturday Evening Post" and "The Country Gentleman."

Q. How are those magazines circulated at the present time?

1317

A. To subscribers, through the American News Company and through our sales agents.

Q. By your sales agents, do you mean the district agents?

A. The district agents.

Q. What was the first magazine published by the Curtis Publishing Company?

A. "Ladies' Home Journal."

Q. When was the first issue of the "Ladies' Home Journal?"

A. 1883.

Q. How was the "Ladies' Home Journal" circulated at the beginning?

A. By subscription and through the American News Company.

Q. When you say "through the American News Company," do you mean through newsdealers supplied by the American News Company?

A. Yes, sir.

Q. How long did that continue after 1883, with respect to the "Ladies' Home Journal"?

A. Up to about 1910.

Q. And up to about 1910, the "Ladies' Home Journal" was circulated by mail, to subscribers, and entirely through the American News Company for its single copy sales?

A. Yes, except for a small list of agents with whom we experimented on direct sales, beginning in 1908.

Q. When did the Curtis Publishing Company acquire the "Saturday Evening Post"?

A. About 1897.

Q. Do you know what month? Well, never mind. How was the "Saturday Evening Post" circulated in the beginning, in 1897?

A. To subscribers direct, and to news dealers, supplied by the American News Company.

Q. That is, it was circulated in the same manner as the "Ladies' Home Journal?"

A. Yes.

Q. Now, for how long was the "Saturday Evening Post" circulated by mail and through newsdealers, supplied by the American News Company?

A. Up to December, 1899.

Q. When the "Saturday Evening Post" was purchased in 1897 by the Curtis Publishing Company, did it have any substantial circulation?

A. Not a substantial circulation, no.

Q. It had a very small circulation?

A. Very small.

Q. What was its chief value at that time?

A. Its title, and the fact that it had been founded by Benjamin Franklin.

Q. Do you know what the total edition of the "Saturday Evening Post" of December, 1899, was? Have you any figures there to show it?

A. Yes; the edition of December 23, 1899—the third or fourth issue of the month—was 200,000 about.

Q. It was about how much?

A. About 200,000.

Q. I am talking about the weekly sales.

A. The sales circulation, you mean?

Q Yes, I am talking about the "Saturday Evening Post" edition of one week. Take the week of December, in 1899. Have you got that?

A. You mean the total edition?

Q. Yes; the total sales?

A. Yes; I have that here.

Mr. Spiess: The total edition of December 23, 1899, was about 200,000.

The Witness: That is right—I have the average edition for the twenty-seven weeks ended June 30, 1900, here. The average sales edition for the twenty-seven weeks ended June 30, 1900, was 8267.

By Mr. Welch:

Q. Now, what was the figure of 200,000 that you just gave?

A. That was the total edition of December 23, 1899.

By Mr. Spiess:

Q. Total edition up to then, you mean?

A. No, that one issue.

By Mr. Welch:

Q. Including subscriptions?

A. Yes.

Q. And the total sales edition was 8267?

A. That was the average weekly edition for the twenty-seven weeks ended June 30, 1900.

Q. Now, you testified that up to December, 1899, the "Saturday Evening Post" sales edition was circulated through the American News Company?

A. Yes, sir.

Q. When did that arrangement cease, and what was the first edition sold, through boys?

A. The first edition sold through boys was dated December 30, 1899.

Q. At that time did the "Post" circulate to the retailers through the American News Company?

A. Yes.

Q. Now, how were the boys obtained for the December 30, 1899, issue of the "Saturday Evening Post"?

A. By advertising.

Q. Where were those advertisements put in the papers?

A. In our own magazines, in the beginning.

Q. And how were those advertisements answered —were they answered directly?

A. The boys would write to us and we would make arrangements with them, by correspondence.

Q. So that on December 30, 1899, the "Saturday Evening Post" was sold through boys that had been obtained by the Curtis Publishing Company, through various advertisements?

A. Yes.

Q. Now, how did the boys who sold these copies obtain the copies?

A. The boys would send their orders to us.

Q. What do you mean by "to us"?

A. To Philadelphia.

Q. To the main office at Philadelphia?

A. To the main office at Philadelphia.

Q. And you would send the copies direct to the boys?

A. Direct to the boys wherever they lived, by mail.

Q. In the beginning, what was the inducement offered to these boys to sell the "Saturday Evening Post"?

A. A profit of two cents on each copy sold.

Q. That is, the "Saturday Evening Post" was supplied to the boys at three cents, and they sold it at five cents?

A. That is right.

Q. Were any prizes offered at that time for any exceptional work done by the boys?

A. Soon after we began offering prizes.

Q. What were these prizes, just generally speaking—the character of them?

A. Oh, we offered various sporting goods, baseballs, watches and things that boys like to use. Still later, we started prize contests.

Q. Now, at that time, in December of 1899, were any other magazines, weekly or monthly, circulated or sold through boys?

A. No.

MR. DALY: I would like to ask counsel a question. Is it your purpose—if you desire to an-

swer this—to go into this organization of boys and expense of building up that organization?

MR. WELCH: Yes.

MR. DALY: Then I think right here I want to make an objection on the record, Mr. Examiner. Our contention is in this case that no matter what sort of organization of boys that the respondent has built up, or what large sums of money that this respondent has spent upon this organization of boys, is no defense in this case. It does not go to any proper defense under Section 3, nor does it go to any proper defense under Section 5, and I want here to register that objection, so that the record will show exactly where we stand on that matter, and I object to all of this testimony about the organization of boys and the amounts that were expended in building it up.

MR. WELCH: Mr. Examiner, I just want to state that the statement by Mr. Daly that this matter constitutes no defense, seems to me as a little premature, inasmuch as he does not know the connection we propose to show between the boys and the district agents, as showing what led up to the obtaining of the district agents by this company, and the reasons why we claim and insist upon the right to say to these district agents, by reason of their connection with boys, what they shall and what they shall not handle with respect to magazines.

EXAMINER MOORE: The Examiner will reserve decision in this matter.

By MR. WELCH:

Q. Mr. Douglas, you recall that Mr. Welker testified something in this case with respect to a boy plan that he had in effect in 1894 and 1895. Do you remember that?

A. Yes.

Q. Was that in any way similar to your plan? If not, what was the difference?

A. He was speaking of newspapers that he was selling.

Q. That is, selling newspapers through newsboys?

A. Yes.

MR. DALY: Ask him what the plan was, Mr. Welch. I think your conclusions and so on——

MR. WELCH: They were Mr. Welker's conclusions, too, Mr. Daly. That is the difficulty.

MR. DALY: I will withdraw my objection.

By MR. WELCH:

Q. The papers that Mr. Welker refers to on page 112 of the record were in the nature of newspapers, were they not?

A. Yes, sir.

Q. Mr. Douglas, what effect did this circulation through boys have on the circulation of "The Saturday Evening Post," after a period of a few years, say five years?

MR. DALY: Now, is not that the same sort of conclusion that you talked so much about in the early part of this case, Mr. Welch?

By MR. WELCH:

Q. Did the circulation of the "Saturday Evening Post," through boys, increase after December, 1899?

A. Yes; it increased steadily and substantially until, in 1908, we had half a millon circulation through boys.

MR. DALY: What was that answer?

(The stenographer repeated the answer.)

By MR. WELCH:

Q. Did you encounter any difficulties in circulating through boys the way you did?

A. Yes.

Q. What were some of them?

A. We found a prejudice in the minds of the parents and others against the idea of having boys sell magazines in this way. They looked upon the work of selling magazines as being the same as the work done by newspaper boys selling newspapers on the streets. There was a prejudice against it. They considered the newsboy's work as blind alley work. We had to make our methods different and our plans different in order to win the co-operation of the parents and teachers and others, and that required long and arduous work and the expenditure of a good deal of money. We had to inject into our plan an educational content in order to win the convinced participation of parents in our plan, with respect to boys.

Q. What other difficulties did you have?

A. We found the boys fickle and we had to devise various ways and means of retaining their interest and their efforts. We found it difficult to get boys to get steady customers. Our effort was almost entirely toward the getting of steady customers whom the boys might serve regularly from week to week, and we, of course, had to teach the boys how to do this and tell them how.

Q. Did you break down, finally, the prejudice of the parents and teachers that you mentioned?

A. This prejudice was broken down until eventually——

MR. DALY: I do not want to be objecting to this all the time, but it seems to me this is rather vague testimony about the breaking down of the prejudice of the parents and teachers and so forth.

By MR. WELCH:

Q. Did you secure the co-operation of the parents and teachers of the boys you had selling the "Saturday Evening Post"?

A. We did.

Q. Was the "Post" in the beginning known throughout the country?

A. It was not known west of the Alleghenies.

Q What was the character of the boys who were selling the "Saturday Evening Post" at the time you mentioned?

A Almost all home boys and school boys who sold nothing but our magazines.

Q. You spoke of certain educational features which were incorporated in the plan, did you not?

A. Yes, sir.

Q. What were those features, in a very brief way?

MR. DALY: Now, "this plan"—I do not know what this plan was. Have you gone into that?

MR. WELCH: The plan to sell the "Saturday Evening Post" copies through boys.

MR. DALY: Has he explained his plan about that?

By MR. WELCH:

Q. Explain the plan you had of selling copies of the "Saturday Evening Post," through boys?

A. As I stated, the boys sent in their remittances and orders to Philadelphia, and we mailed the copies back to the boys. Then, in order to carry out, or in order to accomplish our plans, we had to make it possible for the boys to learn how to sell. We began printing leaflets and pamphlets and house organs, in which we placed suggestions for the guidance of the boys, telling them what to say about the publications—telling them what to say about the articles or features of the publications. We, in short, had almost to put into the mouths of boys what they should say about the articles in the magazines, and we had to help them to identify the class of readers to whom to go. We had to associate the particular article with the prospective purchaser in the mind of the boy, in order that he might

judge how to intelligently approach the reader, who would be most apt to buy the particular article or issue. That required a good deal of work, in addition to the other necessity of getting the convinced participation of the parents of the boys in this proposed plan.

Q. How did you obtain the participation of the parents and teachers?

A. We built up a circulation of twenty-five to forty thousand and then we found it difficult to make further increases. The increases that had been made up to that point did not follow, and we began to analyze the reasons for that, and we found that it was——

MR. DALY: He is not answering the question, is he?

By MR. WELCH:

Q. How did you obtain the participation of the parents and teachers that you spoke about?

A. By emphasizing the business training value of this work and pointing out what was involved in it.

Q. How was that done?

A. By concrete illustrations as to what was involved in that.

Q. Was that done by traveling men or correspondents?

A. We began with a few traveling men in about 1901, and we gradually increased the force so that we had traveling men as well as correspondence helping to this end.

Q. What educational feature was incorporated in your method?

A. Eventually we worked out the plan of the League of Curtis Salesmen.

Q. The what?

A. The League of Curtis Salesmen.

Q. What was that?

A. A league composed of the organization of our

better boys—the boy reaching the highest rank in the league is assured of a good salaried position obtained by us for him. There are several ranks in the league. This was the culmination of our effort at imparting the educational content to the parents.

Q. That was the culmination of your effort that began in 1899 or 1900, when you first started to break down this prejudice of the parents and teachers?

A. Yes, sir.

Q. Which you testified about?

A. Yes, sir.

Q. Was there anything with respect to the vocational training of boys other than you have testified, with respect to the instruction that you gave them?

A. Oh, yes; we have used moving picture films, and we have had conventions——

Q. I mean at that time?

A. In the early time?

Q. Yes.

A. We emphasized points like this: "Boys in connection with this work have opportunities to learn something about the keeping of accounts, because they have accounts to keep with their customers and with the district agent, and we emphasized the desirability of learning salesmanship, by reason of the fact that the vocation of salesmanship is one of those vocations having a large number of people employed in it, larger, in fact, than all but three or four other vocations, perhaps For instance, bookkeeping—that is taught in almost every public school, yet there are several salesman for each bookkeeper, and you hardly find salesmanship taught in any high school—at least not one in a thousand.

MR. DALY: I object to that answer. That is going away beyond the question.

By MR. WELCH:

Q. At that time, in 1899 and 1900, the boys were in direct contact—that is, the boys who were selling the "Saturday Evening Post"—were in direct contact with the main office of the Curtis Publishing Company in Philadelphia?

A. Yes, sir.

Q. Did you have any local agents at that time—in the beginning?

A. Not in the beginning.

Q. What gave rise to the appointment of local agents—just briefly explain that, Mr. Douglas?

A. We found need of local supervision.

Q. Local supervision of the boys?

A. Local supervision of the boys, yes, sir, in order to adapt it locally—to meet local conditions—the plans I have described. That is when we began appointing district agents.

Q. When did you appoint the first district agent of The Curtis Publishing Company?

A. The first district agent was appointed in about 1901.

Q. Who was it?

A. Beverly Roy Dudley, of Richmond, Virginia.

Q. Was he a boy salesman?

A. He had been a boy salesman.

Q. He had been a boy salesman?

A. Yes, sir.

Q. He was the first district agent appointed?

A. Yes, sir; the first district agent appointed.

MR. DALY: Do not lead him too much, Mr. Welch.

MR. WELCH: All right. I will try not to. Stop me, Mr. Daly, if I should fall into the habit.

By Mr. Welch:

Q. Who was the next agent appointed?

A. I think the next was Wallace Greenbaum, of Denver, Colorado.

Q. Had he been a boy—a Curtis boy?

A. Yes, sir; he had been a Curtis boy.

Q. Did you keep on appointing district agents after that, from time to time?

A. We appointed a few and watched them to see what developed and as excellent progress followed, then we began appointing other district agents, just as fast as we could everywhere.

Q. Have you any idea about how many you had after the first six months—just approximately?

A. We probably worked for about three months with a dozen, to see what the developments were. Then, within six months after that, I should say we had a hundred or two.

Q. What was the primary purpose of the district agent that you have just referred to?

Mr. Daly: Mr. Welch, I cannot understand that line of questioning at all. I do not see what place it has here. What do you mean—why they were appointed?

Mr. Welch: What was the primary object of appointing him? What was he supposed to do?

Mr. Daly: What did he do, you might ask him.

By Mr. Welch:

Q. What was the main reason for your appointing these district agents, and what were they supposed to do?

Mr. Daly: I think the reason ought to be stricken out—what the agent should do, etc., I think is pertinent.

Examiner Moore: Do you wish to be heard on the motion of Mr. Daly, Mr. Welch?

MR. DALY: I will withdraw it. Go on.

EXAMINER MOORE: Proceed.

THE WITNESS: We wanted a representative locally—an agent locally—who would coach these boys and train them as salesmen. We wanted to shift, with respect to this effect, the center of gravity from Philadelphia to these cities, and have an agent there who would coach these boys and do the same things we were doing at Philadelphia.

By MR. WELCH:

Q. Did that involve meeting with the parents and teachers?

A. Yes, sir; that involved meetings with the parents and teachers.

Q. What did the agent have to do at that time with respect to making any reports?

A. Very soon—in due course, after we had appointed a considerable number of them, so it became a practical thing, then we began to ask them to make reports of sales by boys individually. Of course, when we appointed one of those agents we turned over to the agent all the boys in the town who had been previously buying from us and asked them to buy from the district agent, thereby giving the district agent the local organization to start with, giving them the boys we had been previously supplying, and as soon as it became a practical thing, we had these agents report to us the sales by the boys individually.

Q. So after 1901, which was the beginning of the employment of district agents, you testified, I think, that you put in more from time to time at various places?

A. Just as fast as we could.

Q. Now, at that time, how were the district agents located and found—selected?

A. They were placed largely by correspondence,

for the reason that in the early days we did not have an adequate force of men. We had applications from a number of the boys, asking for appointment. In our house organs, we made mention of the arrangements that had been made with district agents.

MR. DALY: What question is he answering?

MR. WELCH: He is anwering how the district agents were selected and found.

THE WITNESS: In our house organs we made mention of the arrangements that had been made with Beverly Roy Dudley and with Wallace Greenbaum, and with others, and this resulted in applications coming to us from boys in other cities, who wanted similar arrangements made.

By MR. WELCH:

Q. Did you have any traveling men appointed then?

A. We had a few, yes.

Q. In what other way were agents obtained?

A. Then as we found this plan proving successful, we advertised. We advertised for persons to act as agents for us.

Q. And this was covering the period from 1901, up to about when? That is, it was a continuing period, after 1901?

A. Continuing period, yes.

Q. Now, what was the character of the men, other than boys, that were appointed district agents?

A. Chiefly retail dealers.

Q. Retail dealers in what?

A. News dealers, stationers, book stores, druggists, tobacconists, candy stores occasionally—every kind of a retail store.

Q. Did you endeavor at first to obtain as district agents one of the boys who had been selling the "Post"?

A. The preference was always given, under our original instructions, to one of the boys who had previously been selling, if there were one qualified, for leadership of the others.

Q. And following that, your traveling men or you would appoint a retail dealer?

A. Someone qualified for leadership, chiefly retailers.

Q. And you kept on appointing—did you after that keep on appointing boys as district agents, wherever available?

A. Yes; we still do so.

Q. And still do it?

A. Yes.

Q. That is, boys who previously sold the "Post" and the Curtis publications?

A. Yes; there are thousands of boys, right now, looking forward to the time when they may get to be district agents.

MR. DALY: I ask that that be stricken out. I do not see what that has to do with it.

MR. WELCH: All right.

By MR. WELCH:

Q. Now, you kept on increasing the number of district agents, I suppose, and extending them to various other parts of the country?

MR. DALY: Mr. Examiner, I do not want to hurry this hearing, but if the learned counsel will confine himself to questions that are not too leading, I will never say a word.

MR. WELCH: All right, Mr. Daly. Strike that question out.

By MR. WELCH:

Q. What did you do with respect to extending district agents or not?

A. In about 1909, we began to use traveling men

on a large scale, to appoint district agents in towns where we then had not appointed them.

Q. Do you know of any cases where district agents appointed in the early days are still acting as district agents?

A. Yes.

MR. DALY: Of course, the Examiner understands that we object to all this line of testimony. We made the formal objection at the beginning, and we register another objection now, that this sort of testimony is absolutely irrelevant and does not prove anything—has no— is no defense in this case.

EXAMINER MOORE: Your objection is noted.

MR. WELCH: I do not know whether we had better state anything in opposition here on the record. I have not been doing it, because I do not suppose it is necessary, is it?

MR. DALY: He may state his reasons, if he wants to. We are not urging it.

MR. WELCH: Well, in answer to Mr. Daly's objection, I want to state that this is most material from the respondent's point of view, as showing the organization of its district agency force, which is the subject of attack in this proceeding, and we cannot be expected to pick it out as it is of 1917, to suit the Commission's views and disregard the early history of it, and how we and it became identified, and for that reason we claim that we are entitled to show the beginning of this organization, the early days of it, how it was built up and all of the details relating to the building up of this organization of boys and district agents to the present time.

EXAMINER MOORE: Very well.

By Mr. Welch:

Q. Now, what was the question, Mr. Douglas? I asked you to state one or two instances of district agents who have continued as such, up to the present time.

A. Yes; among those early boy district agents I can mention Pelz of Seattle.

Q. Yes; and who else? He was a boy, selling?

A. He was a boy selling.

Q. Back in 1900?

A. Away back in those early days.

Q. And who else?

A. William Smith of Washington, D. C.

Q. Who else? Is your man at San Francisco still the same one?

A. Joe Orcutt of Lincoln, Nebraska, and Smith of San Francisco—goes back to before the fire, at any rate—one of the early ones and others.

By Mr. Daly:

Q. Do you know Smith's first name?

A. Ernest M.

By Mr. Welch:

Q. How about your agent at Austin, Texas?

Mr. Daly: That is rather leading, I think.

Mr. Welch: Well, I am asking whether that is a fact or not.

By Mr. Welch:

Q. Was your present agent at Austin, Texas, ever a boy salesman?

A. We had for a number of years a district agent at Austin, Texas, named Chester M. Place, who had previously been a "Post" boy.

Q. Any other locality or town?

A. Yes; I think of Ben Comenitz, of Davenport, Iowa, who was a "Post" boy in 1902, afterwards district agent in Davenport.

By Mr. Daly:

Q. Where is he, when you speak about him?

A. He was a "Post" boy in 1902, in Davenport, Iowa, I believe.

By Mr. Welch:

Q. Was your agent at New Brunswick, N. J., ever a "Post" boy?

A. Schneider of New Brunswick was a "Post" boy. Moses Schlassman of Haverhill, Mass., was a "Post" boy.

Q. I am speaking now of whether they were boys who sold the "Saturday Evening Post," back in the beginning?

A. They were boys, back in those early days.

Q. Back in the days of 1900, 1901 and 1902?

A. Yes.

By Mr. Daly:

Q. They were among your original boys, is that right?

A. Those men were all "Post" boys in the early days.

By Mr. Welch:

Q. Were there any others, do you know, besides the ones you have mentioned?

A. There were others.

Q. Now, in the beginning, did the district agents have any written contract—written form of contract—with the Curtis Publishing Company?

A. I think those early experimental ones—the arrangements were made by letter.

Mr. Daly: Now, about experimental contracts——

Mr. Welch: No, experimental agents.

THE WITNESS: Those experimental agents—the first few—I think arrangements were made by letter.

MR. DALY: There were no contracts?

THE WITNESS: By letter.

MR. DALY: Mr. Welch, what kind of contracts do you refer to?

MR. WELCH: I asked him the question, Mr. Daly, whether the first agents had any form of contract.

MR. DALY: No, he says not, does he not?

MR. WELCH: He says they had a contract by letter.

THE WITNESS: By letter.

MR. WELCH: Is that clear?

MR. DALY: I guess so. As I understand it, you merely would write them and appoint them; is that it?

THE WITNESS: We would reach an agreement with them, upon certain conditions.

By MR. DALY:

Q. But it was not this contract we have been talking about in this case? Was it that sort of a contract?

A. It was not this present contract.

By MR. WELCH:

Q. Now, at this time, I understood you to say that in some cases district agents were retail dealers?

A. Yes.

Q. Were they men who wholesaled anything at all that you know of?

A. I do not think we thought of that or knew about it in the beginning?.

Q. They were retail dealers?

A. Retail dealers usually.

Q. Did they handle the "Ladies' Home Journal" in the beginning?

A. No.

Q. That was distributed entirely through the American News Company, was it not?

A. Yes.

Q. Do you recall certain testimony given by Mr. Scholz and Mr. Annenburg in this case, to the effect that after a consolidation of certain Chicago newspapers in—consolidation by certain Chicago newspapers of their agencies in one man, that the Curtis Company used this organization of wholesale dealers? Do you remember that testimony?

A. Yes, I remember that.

Q. Did you ever know anything about that organization or have any list of those newsdealers?

A. We had no list, and it would be just as fair to say that we——

Q. Do you know anything about that organization?

A. I have no recollection of knowing about that organization, until the testimony in this case. We opened branch offices in 1906, and we did not go to the newspapers to get our branch managers.

Q. It was testified that that took place in 1906. It was also testified by Mr. Annenburg that he urged the Curtis Publishing Company to use these newspaper wholesalers. What do you say about that?

MR. DALY: Now, if he knows about that. What was Mr. Annenburg's testimony about that?

MR. WELCH: Page 1261.

By MR. WELCH:

Q. Do you know of any such action on the part of Mr. Annenburg?

A. I have no recollection of any urging by Mr.

Annenburg, or any representative of his paper, that we use their agents generally. We had no lists from them, nothing of the sort, but it has been a constant experience of ours that newspaper managers would ask us to appoint their representative in some town. We have been urged, and urged, and urged.

MR. DALY: I ask that it all be stricken out.

MR. WELCH: Strike that out.

By MR. WELCH:

Q. I asked if Mr. Annenburg's statement that he urged the Curtis Publishing Company to give their business, in some instances to these newspaper wholesalers, is correct, according to your knowledge and recollection?

A. I have no knowledge or recollection of such from Mr. Annenburg.

Q. You were in charge of the department of the Curtis Publishing Company that had the appointment and selection of district agents at that time?

A. Yes; I do recall, however, that he asked us to reinstate in Milwaukee an agent that we previously released.

Q. That has not anything to do with the question, has it? Did that have anything to do with the newspaper wholesale agencies?

A. He had in mind a newspaper wholesale agent.

Q. Did you yourself, or did you know of any effort that was made on the part of the Curtis Publishing Company, to use any newspaper wholesalers, such as Mr. Annenburg and Mr. Scholz referred to in their testimony?

MR. DALY: Well, now, he is the man that is doing it, is he not, Mr. Welch?

MR. WELCH: Yes. What is there improper about that question? I asked him, did he know anything about it.

A. I know that in some cases our men appointed newspaper wholesalers, but these men were working under instructions to use somebody qualified for leadership, and that was the basis of their selection—somebody qualified for leadership of these boys.

By MR. WELCH:

Q. Did you have any list or have any knowledge of the persons from the Chicago newspapers, such as testified to by Mr. Annenburg?

A. No; not as consolidated agents; not unless some of those men actually wrote in to us and applied, as might have happened in some cases.

Q. I want to make this perfectly plain, Mr. Douglas, whether or not you set out and made any special effort to get a newspaper distributor as your agent?

MR. DALY: Mr. Examiner, I do not like to be captious, but if the learned counsel would simply ask what he did about that, he would get what he wanted.

A. We did not.

MR. WELCH: That is what I am asking him. Read the question.

(The question was repeated by the reporter as above recorded.)

THE WITNESS: No; those men were instructed to appoint men qualified for leadership of these boys.

MR. WELCH: I have now reached the point, Mr. Examiner, where I can suspend, if you wish to, or I will go ahead.

EXAMINER MOORE: We will take a recess until 2.00 o'clock P. M.

(Whereupon, at 1.00 o'clock P. M., a recess was taken until 2.00 P. M.)

## AFTER RECESS.

The hearing was resumed at 2.15 o'clock P. M. pursuant to the taking of the noon recess.

---

M. E. DOUGLAS, resumed the stand and testified further as follows:

DIRECT EXAMINATION (continued).

By MR. WELCH:

Q. Mr. Douglas, who was the first district agent appointed by the Curtis Publishing Company, outside of its boys' organization?

A. H. A. Schaefer.

Q. Where was he?

A. At Pittsburgh.

Q. What time was he appointed district agent?

A. 1901.

Q. What was his business at that time?

A. He had a little retail store in what I think was the Old Carnegie Building.

Q. What did he sell in the beginning—what magazine did he sell?

A. The "Saturday Evening Post."

Q. That is the only one he handled at first?

A. The only one; yes, sir.

Q. Did he have any conversation with you with respect to the agency and the boys?

A. Yes; he came in to see me and wanted us to turn over to him all the boys we were supplying in Pittsburgh. I would not do it at first, but we later did do it under an agreement with him—under an agreement we made with him finally.

Q. Did do what?

A. Under an agreement we made with him, we finally did do it.

Q. Did you have any formal written contract with him in the beginning?

A. My impression is that the first contract with him was by letter.

Q. Do you know whether at that time there was any other publisher of magazines that circulated its magazines through local district agents, supplied directly by the publisher and by the boys?

A. There was none.

MR. DALY: What was that question?

(The stenographer repeated the question.)

By MR. WELCH:

Q. Now, did the district agents that were appointed in the early days handle only the "Saturday Evening Post"?

A. Yes, sir.

Q. And up to what year did they handle only the "Post"?

A. Up to 1910, as to the great bulk of the list—a few in 1908.

Q. To whom did they sell their publications?

A. To the boys.

Q. To the boys only?

A. To boys only with our sanction.

Q. How were the news dealers—that is, the retail news dealers throughout the country—those supplied at that time with the Curtis publications?

A. Through the American News Company and its branches.

Q. Did the "Ladies Home Journal," up to 1910, go entirely through the American News Company?

A. Yes, sir; except a small list that we were experimenting with.

Q. Did you give any figures as to the circulation of the "Saturday Evening Post" during the year 1910?

A. I am not sure whether I gave 1910 or not.

Q. State whether or not the circulation of the "Saturday Evening Post," distributed through these district agents and boys increased, and if so, what was it for the year ending June 30, 1910?

A. For the year ended June 30, 1910, the average weekly circulation through sales agents was 988,000.

MR. SPIESS: Just through the agents?

THE WITNESS: The average weekly circulation of the "Saturday Evening Post," through the sales agents, for the year ended June 30, 1910, was 988,000.

By MR. WELCH:

Q. That is, 988,000 per issue?

A. Yes, sir; average weekly.

Q. Per weekly issue?

A. Yes, sir.

Q. Where were the various district agents—in what parts of the country, that is—located in 1910?

A. All parts of the country.

Q. What?

A. All parts of the country.

By MR. DALY:

Q. I would like to ask a question about that portion of the answer—"all parts of the country." What do you mean by that?

A. I mean we had district agents in all states.

Q. Some places in all states?

A. Yes, sir; some places in all states.

By MR. WELCH:

Q. Now, was the service and distribution of the "Saturday Evening Post," through these district agents, extended to the news dealers?

A. Yes.

Q. When was that?

A. With our sanction, on the "Post," in 1908 or 1910, or thereabouts.

Q. How did that come about?

A. In the beginning, as I said before, the boys were all supplied directly from Philadelphia. When we appointed district agents the purpose was to supply the boys, and they were appointed with the understanding that their sales should be to boys only. The dealers were all supplied by the American News Company, and we did not want to disturb those arrangements. After a time we noticed that the district agents here and there would be selling to the news dealers contrary to their arrangements with us, and wherever those instances were brought to our notice we forbade them to do so. In quite a number of cases we released agents because they supplied the news dealers contrary to our instructions. We had sent our road men out to investigate. There was voluminous correspondence on the subject, and that situation went on, oh, for several years, and we did everything we could to prevent the shifting of the dealers from the news company to the district agents, and we wrestled with that problem in an effort to restrict the dealers to supplying the retailers and not the news company customers, but it finally got to a point where the news boys' circulation was greater than the other circulation of the publications, and it got to a point where it got beyond our control and only when it got to a point beyond our control did we sanction the district agent selling to newsdealers, and to this day——

MR. WELCH: Never mind about that. It was done for the purpose of rectifying that situation that existed with respect to the agents supplying retail dealers when they had no authority from you to do so?

A. Yes, sir.

MR. DALY: I object to counsel testifying.

MR. WELCH: Strike it out. I was trying to summarize all he had testified to. I am perfectly willing to have it go out.

By MR. WELCH:

Q. You said in 1910 the "Ladies Home Journal" was first generally made distributable through these district agents?

A. Yes, sir.

Q. And that prior to that time it had gone through the American News Company?

A. Yes, sir.

Q. And it was about that time, I think, you testified that the district agents were permitted to supply the retail news dealers as well as the boys?

A. Yes, sir.

Q. So that about 1910, and thereafter, what was the situation with respect to the distribution of the "Ladies Home Journal" and the "Saturday Evening Post"?

A. Each retail dealer——

Q. How were they distributed throughout the country?

A. Through the district agents and through the American News Company.

Q. Well, the district agents—were they permitted to distribute the "Ladies Home Journal" and the "Saturday Evening Post" as well, to the retail dealers as well as the boys?

A. Yes, sir.

Q. And to what extent was the distribution of the "Ladies Home Journal," through the American News Company, in 1910—to what extent?

A. Well, the news dealers of the country were supplied through the American News Company in 1910, up to September.

Q. I am speaking—no, I am speaking about after September. I want to get the situation——

A. After September——

Q. (Continuing) ——with respect to the circulation of those two papers and their relation to the district agents after the "Ladies Home Journal" was commenced to be circulated through the district agents to the retail dealers?

A. After September each retail dealer was free to choose which source of supply he wished to order from.

Q. Yes. And the district agents were in a position, and intended by you, to supply either the "Saturday Evening Post" or "The Ladies Home Journal" to retail dealers, if they wanted to?

A. Yes, sir.

Q. Mr. Douglas, up to 1910, and during that year, were you having any applications for district agencies?

A. Yes, applications all the time.

Q. And from what sections of the country?

A. All sections.

Q. What was the character generally of the persons who applied to be district agents?

A. Chiefly retail dealers and boys.

Q. About how many district agents did the Curtis Publishing Company have in 1910, approximately, if you know now?

A. About 1700 or 1800.

Q. Did they have that many as early as 1910?

A. I think so.

Q. You testified that most of these district agents, in 1910, were boys and retail dealers. Can you give any estimate of what percentage were boys and retail dealers?

A. About 85 per cent.

MR. DALY: What?

MR. SPIESS: Boys and retail dealers.

MR. DALY: 75 per cent of boys?

MR. WELCH: He said about 85 per cent were boys and retail dealers.

MR. SPIESS: Of all their agents?

MR. WELCH: Yes.

By MR. WELCH:

Q. And these retail dealers were men engaged in what occupations generally?

A. News dealers, book dealers, stationers, druggists, tobacconists, confectioners—almost every retailer who would be represented. We had photographers and all classes.

Q. Go ahead and specify the characters.

A. Photographers, sporting goods stores, even department stores in a few cases, and telegraphers and stenographers and grocers and so on.

MR. SPIESS: That was in 1910?

THE WITNESS: Yes.

By MR. WELCH:

Q. Yes; talking about 1910, and it was during that year, I think, you testified that you ceased to employ the news companies exclusively for "The Ladies' Home Journal," was it not?

A. Yes.

MR. DALY: Did he testify to that?

MR. WELCH: Yes.

By MR. WELCH:

Q. Now, Mr. Douglas, in 1910 and thereafter, what did you do to keep up your "Post" district agents and increase them from time to time?

A. We increased our staff of road men.

Q. What did you do with respect to getting boys?

A. We were both then and before and since, constantly busy, recruiting boys—finding boys—to replace those who would drop out, and to increase the total number of boys selling. We did it by advertising. We

did it by circularizing, and we did it by obtaining names of lists of boys, both through our own agents and otherwise.

Q. That you have done right up to the present time?

A. That we have been doing steadily, all along.

Q. Did you have any contests in 1910 or thereabouts?

A. Oh, yes.

Q. Was that the beginning?

A. No; beginning way back of that, contests for boys, contests for district agents, dovetailing and supplementing each other.

Q. These road men that you speak of, that you said the increased number of, were they salaried men or not?

A. No; not at first.

Q. The distribution of the "Saturday Evening Post" and "The Ladies' Home Journal," through these district agents, in the manner you have testified, has continued up to the present time?

A. Yes.

Q. When was the "Country Gentleman" purchased by the Curtis Publishing Company?

A. About 1912.

Q. And was that circulated in the same way as the "Journal" and "Post"?

A. Yes, sir.

Q. And it is today?

A. Yes.

Q. Mr. Douglas, from 1910 up to the present time, has the force of district agents been maintained by the Curtis Publishing Company?

A. We have not as many as we had before. We found we did not need as many as we appointed.

Q. But it has been maintained generally?

A. Oh, yes; we have maintained it generally and maintained all we needed.

Q. How many district agents are there at the present time?

A. About 1525 or 1530.

Q. Have the road men been increased from time to time?

A. Yes, sir.

Q. And how many road men does the Curtis Publishing Company employ at the present time?

A. A total of seventy-five.

Q. Would that number be different, if you take the date as of the filing of this complaint in July, 1917?

A. Yes.

Q. What difference would there be?

A. We have about 20 or 25 men now—road men, salaried road men now, working in small towns, on "Country Gentleman" promotion work. They have nothing to do with district agents.

Q. Well, I asked you whether the number that you gave as seventy-five, would be any different at the present time—would be any different if you took the date of the filing of the complaint? Did you have as many when the complaint was filed in this proceeding, as you have now?

A. No; because we have put on twenty or twenty-five road men now, working in small towns, promoting "Country Gentleman" circulation.

Q. At the present time you have seventy-five road men, and at the time the complaint was filed, you had about fifty?

A. About fifty.

Q. Now, I will ask you the same question about agents. You testified just a few moments ago that you had about 1525 district agents?

A. Yes.

Q. Do you mean at the present time?

A. I think there is very little difference now and the first of 1917.

Q. Now, Mr. Douglas, I want you to state what are the duties of the various district agents—these 1525 district agents, and what services they perform?

A. The duties of the district agent include the maintaining of the staff of boys, the coaching and training of these boys, showing them how to sell, helping them to determine what neighborhoods to seek customers in, helping them to identify classes of readers to whom the articles will appeal. It includes the ordering of the copies for distribution, the making of the settlement, includes the supplying of the boys and the retail dealers. Their duties include the making of a sales report to us, keeping a record of the sales that are made by the retailers.

Q. Have you one of those sales reports here?

A. Yes; I think there is one over here. (Handing counsel a paper.)

Q. You go ahead, Mr. Douglas. Do you know where you were when I interrupted you?

A I had just finished describing briefly the duties of the district agent.

Q. Now, are they in touch at all with the boys' parents or teachers?

MR. DALY: Who are these now, the district agents?

MR. WELCH: The district agents.

A. The district agents frequently talk with the parents of the boys, with a view to getting the parents to co-operate, by encouraging the boys. This happens not only at the stores or offices of the district agents, where the parents drop in occasionally, but it also happens when the district agent calls upon the parents, as they do sometimes, not as frequently, however, as

the parents are seen at the store, and the district agents are in touch with the school teachers to some extent, although not probably to the same extent as the parents.

By MR. DALY:

Q. Do you know about that?

A. I know that that is true, for I have had the district agents tell me so. We have had the district agents get lists from the school teachers. I know of one state where we got the school enrollment in practically every district agency.

MR. WELCH: Speak up. We cannot hear you.

THE WITNESS: I say in one state, we got the school enrollment of the boys of the desired ages, from practically every district agency town in the state.

By MR. WELCH:

Q. Now, what other duties have these district agents with respect to the boys, if any, with regard to any contests, conventions or anything of that kind? I want you to mention all of the duties that they have.

A. When we have had contests, the district agents have by us been kept in touch with the local boys who have manifested interest, and the district agents have then encouraged and coached those boys, talked with their parents and helped these boys to get more customers. In connection with the League, the district agents are urging the boys to qualify for membership in the League, and for progress through the successive ranks in the League. Some of the district agents give a good deal of attention to this; others give less attention to it. It is part of their general work. So in relation to the newsdealers; it is the duty of the district agent to supply them and to make reports on their sales, as on the sales of the boys.

Q. Do the district agents ever hold a contest of their own initiative, do you know?

A. Yes; less frequently than at our suggestion. We have supplied the district agents with various articles which the district agents have offered as prizes to the boys. Some district agents have furnished such prizes without our having paid part, and in other cases we have gone fifty-fifty with them on such prizes.

Q. Is there anything else you wish to add as to the duties of the district agent in the service they are employed to render to the Curtis Publishing Company?

A. It is the district agent's duty, under the agreement, to maintain a force of sub agents adequate to dispose of the number of copies specified under the agreement, and as local conditions affecting the work of the boys make it necessary, it is their duty, from time to time, to get additional ones. Some of these men, at our suggestion, have allotted the city into routes for their boys, although that is not a general practice.

Q. Upon the appointment of a district agent, what literature, if any, or what property belonging to the Curtis Publishing Company, is sent to them?

A. We send the district agent bags for him to give to the boys to carry the magazines in.

MR. DALY: Send what?

THE WITNESS: Bags—"Post" bags or "Journal" bags or both—we send to them the vouchers which the district agent is to give to the boys or dealers, according to their sales of the magazines; we send to them record books, either loose leaf ledger folders, or books, or bound books in which the district agents' records of the sales by their boys and dealers are kept. When we started the voucher plan, we sent to each man acting as district agent an outfit with the prices in the book itself, ranging in value from five to twenty-five

dollars to district agents, which articles the district agents keep on display in their offices or stores where the boys can see them, and as the boys accumulate the vouchers, some of them would take the vouchers from the supply we had furnished the district agent; in other cases those articles were either returned to us or turned over to another agent, in the event a transfer had been made before those articles had been exhausted by redemption from time to time by the boys redeeming them. So, we have furnished the agents with window backgrounds, which are rather expensive and elaborate, for display purposes, which they gave out to the dealers, and we supplied them from time to time with posters and other printed matter for their use—reprints of first instalments of serials—for their use in increasing their circulations. In the beginning, when we began publishing house organs for the district agent boys, we sent the house organs themselves to the district agents who distributed the house organs to the boys—a little magazine, for instance, called——

Q. Did you issue any journals for the district agents?

A. Yes, sir; we have a monthly called "The District Agent."

Q. Is that a copy of the monthly you just referred to (exhibiting pamphlet to witness)?

A. That is a copy.

MR. WELCH: I offer that in evidence.

(The pamphlet referred to was thereupon received in evidence and marked by the stenographer, "Respondent's Exhibit No. 1.")

MR. DALY: These are the ones customarily sent out during the period covered, or are these recent ones?

MR. WELCH: I will ask him.

By MR. WELCH:

Q. The copy of the publication called "The District Agent," which you say is issued by The Curtis Publishing Company, is the number of March, 1918. For how many years has that been issued to the district agents?

A. Since 1910.

Q. That is issued free of charge?

A. Yes, sir.

MR. DALY: We do not have any objection to their going in, except the general objection we have already registered, but I wish you would put in some of a prior date.

MR. WELCH: I will put in this one of 1915 (exhibiting).

MR. DALY: 1915 or 1916?

MR. WELCH: The only thing about this is we have no copies of this one (exhibiting).

MR. DALY: 1916 or 1917 will be satisfactory.

MR. WELCH: We will offer this one of 1916. This is a copy of "The District Agent" issued in July, 1915.

THE WITNESS: Yes, sir.

MR. WELCH: That is the one we originally offered in evidence. We will get duplicate copies and submit them. If necessary we will have them reprinted.

By MR. WELCH:

Q. Do you issue any other printed matter or circular matter to the district agents?

A. We supply the district agents with copies of house organs, called "Our Boys," and with copies of the house organ called "The Counselor," and, from time to time during the years covered by this discussion, we have also supplied the district agents with house organs of other classes of workers connected with

us. For instance, we had a house organ called "The News Dealer," which was published monthly for years, and another one "Scout Finance News," which was published monthly, for perhaps two years.

Q. What do you mean by "house organ"?

A. Well, a house organ is a publication issued periodically for the purpose of acquainting the agents or employes with the plans and arrangements and program of the company.

Q. I wanted to distinguish it from a musical instrument. You spoke of a publication called "The Counselor," and one called "Our Boys." For how many years have they been issued?

A. "Our Boys"—under that title—has been issued every month since 1906, and, prior to that time, we had a monthly publication going to the boys for a number of years, but not under that same title.

Q. How long has "The Counselor" been issued?

A. "The Counselor" has been issued for approximately—the first issue was in January, 1916. I believe there was an issue each month both in 1916 and 1917. It has been published not quite each month in 1917. I think it was monthly during 1916, and not quite every month in 1917. In the fall of 1917 I think there were a number of months when we did not issue it.

Q. It was not issued prior to 1916?

A. It was not issued prior to 1916.

Q. Are these two publications—"Our Boys" and "The Counselor"—issued at the present time?

A. "Our Boys" monthly and "The Counselor" from time to time?

Q. At the present time?

A. Yes, sir; when we can get around to it.

Q. I show you copies of each of those publications and ask you whether they are copies of the publications issued by The Curtis Publishing Company that you referred to?

A. Yes, sir.

MR. WELCH: We offer those in evidence.

MR. DALY: We make the same objection.

MR. WELCH: What is that?

MR. DALY: That this organization has nothing to do with the defense in this case.

MR. WELCH: Is the objection made and then a ruling on it, or is it merely——

EXAMINER MOORE: I reserve the ruling on that.

MR. DALY: He reserves his ruling on that and will rule on it later.

EXAMINER MOORE: Let it go in and I will rule on the objection later.

(The publications referred to were thereupon received in evidence and marked by the stenographer, "Respondent's Exhibits Nos. 2 and 3," respectively.)

By MR. WELCH:

Q. Mr. Douglas, with respect to the boys and the boy organization which you have been testifying about, how many boys are there at the present time that sell The Curtis Publishing Company's publications?

A. About 40,000.

EXAMINER MOORE: About how many?

THE WITNESS: About 40,000.

By MR. WELCH:

Q. Will you state what the educational or vocational features or character of the boy organization are and generally what that organization is?

MR. DALY: What is the question?

(The stenographer repeated the question.)

MR. DALY: As to that he has testified that there are about 40,000 boys. Are they the boys handling nothing but Curtis Publishing Company publications?

MR. WELCH: As far as we know; yes.

MR. DALY: How do you know there are that many boys?

THE WITNESS: We know that there are that number of boys because we have the names of the boys that are selling, from the reports from our agents and from our own records. The number varies, of course, somewhat from time to time. I am not answering as to this present minute, you understand.

MR. DALY: It seems to me, if the Examiner please, that this is too general—this 40,000 boys, because it has already been shown in this case that the reports that were sent in by various agents contained the names of a large number of boys, in some cases, that handled other magazines, and if his information is from those reports it would not be fair to say that they have an organization of 40,000 boys, and then go on with what they say to these boys and what they do to them. It seems to me that ought to be more clearly set out. That is too general.

MR. WELCH: I asked the witness how many boys they have and he said they had 40,000—about 40,000. If the Commission desires to cross-examine him on that, or to show by any proof that that is not true, that is another matter, but it does not seem to me that the fact that Mr. Douglas says 40,000 is subject to an objection. I do not know what the basis of the objection is.

MR. DALY: As I understand it, he says information is from these lists; that they have had up to 40,000. Now, it has been shown clearly in this case—and I do not think anyone disputes that fact—in other testimony, and I think it was agreed upon practically, that these reports of boys—on testimony by the men who made out the reports—that in many instances, and in fact in pretty nearly

every one that testified stated so, that there were all kinds of boys on those lists; boys that were exclusively so-called Curtis boys, and boys that handled other magazines, and I think in some cases boys that handled newspapers as well.

Now, if this witness is going to testify that they had 40,000 boys, it seems to me he ought to be confined in some way to the actual facts and not be allowed to make a general statement like this. Learned counsel for The Curtis Publishing Company can do that.

MR. WELCH: Mr. Examiner, the statement that Mr. Daly has just made about the testimony in the case is not strictly accurate, and I know Mr. Daly has no intention to state any inaccuracy. I do not for a moment think that, but I do not think he appreciates the fact, that during the testimony of these agents that testified that they had boys that sold magazines and newspapers, etc., that they gave three figures, one the number of boys they had, usually a larger number than the number of Curtis boys, and a larger number than the number of boys reported, so that it did not appear that any of these agents reported, Mr. Daly, all the boys they had; that there were other boys. Say, for instance, an agent had 100 boys, he only reported twenty-five. It is only those twenty-five that the Curtis Publishing Company says are Curtis boys. He may have had seventy-five other newsboys that we do not have anything to do with. Let me ask Mr. Douglas this question:

By MR. WELCH:

Q. How many boys do the various district agents throughout the country, in the aggregate, report to you as boys selling Curtis publications, giving the number of publications sold at the present time—approximately?

A. Approximately thirty-three to thirty-five thousand.

MR. DALY: The point I am making is this—I do not want to be inaccurate, and I am not sure that I made myself clear—but my recollection of that testimony was clearly this, that these men, the so-called district agents, made out these reports similar to the ones offered here today, and they would set out in this report all the boys that got papers from them; that is to say, Curtis papers, but the testimony went further, and a number of them testified that only a certain percentage of those were boys that exclusively handled Curtis publications, and further were boys that were being trained or educated or coached or something of that character, and the remainder of them were boys that handled other things, so that if this witness were to testify that there were 40,000 boys in this organization, I do not think it would be absolutely correct, and I do not think he wants to testify to that.

MR. WELCH: I should like, Mr. Daly, just for one moment, to correct the impression that you seem to have by a table I have here made up from the testimony of all the agents who testified in this case.

(Mr. Welch thereupon explained the table to Mr. Daly.)

MR. WELCH: The agents who have testified in this case mentioned two times, and in many cases three times as many boys handling their other magazines and papers as they had reported. We are only asking the witness the number of boys reported, and Mr. Daly's recollection of the testimony, I think, is not quite accurate in that respect.

(After further discussion the stenographer read the following question and answer.)

"Q. How many boys do the various district agents throughout the country, in the aggregate, report to you as boys selling Curtis publications, giving the number of publications sold at the present time—approximately?

"A. Approximately thirty-three to thirty-five thousand."

By Mr. Welch:

Q. I will make the question a little clearer. You mentioned 40,000 a few moments ago, and now you say that 33,000 to 35,000 boys were reported by the various district agents. Is that correct?

A. I think so.

Q. What is the figure of 40,000 that you gave?

A. I understood your first question to be how many boys now sell our magazines. Perhaps I misunderstood your first question.

Q. What was the 40,000 that you gave, Mr. Douglas?

A. I think 40,000 is approximately the number of boys that sell for us.

Q. And the number of boys that are reported weekly or periodically by the various district agents, with their names and the number of copies sold is——

A. I think that is approximately 33,000 to 35,000.

Q. Now, with respect to the 33,000 to 35,000 boys that are reported to The Curtis Publishing Company, periodically, by the district agents throughout the country, what educational or vocational plans do you carry on for those boys?

A. We endeavor to teach these boys salesmanship. We do this by means of a textbook, supplemented by our house organs and our supplemental leaflets, and we do it by means of illustrations and meetings of the boys. Meetings are called frequently, in which we get the boys together. Sometimes these meetings are

called by the district agent, sometimes they are called by our road men, so by means of textbooks and leaflets and circular letters and house organs, and by means of demonstrations—actual, practical demonstrations, we endeavor to teach these boys how to sell—the rudiments of salesmanship—the elements of salesmanship. We are making real salesmen of them. The effort that we encourage is not street selling so much as it is the other thing—getting lists of steady customers, so that when the boys start out with their copies, they know just where to go, and it is for instruction in regard to how to get customers; how to identify the prospective customer—what to say to him.

Q. Just name what books and pamphlets you issue and have issued to boys, as well as you can—to these boys that have been and are reported by the district agents from time to time?

A. We have a booklet called "How to Sell," which is the textbook referred to. Copies of this have been placed in the hands of all the boys?

Q. What others?

A. Then we had a series of monthly booklets on salesmanship which went out—which have gone out at different times. Then we have another called "Salesmanship as a Vocation for Boys." and another called "Schooling for Vocations," and we have another book that went out to principals of schools and to school boards, called "Two School Board Problems." Still another leaflet called "When is a Boy Thrifty?" Still another booklet called "What Shall I Do With My Boy?" which is intended primarily for parents. Then a good many others.

Q. (Handing witness.) I show you, Mr. Douglas, four of the various publications and circulars you have mentioned, and ask you if those were among the literature that you have been advertising and that have

been issued to the boys reported to you from time to time?

A. They are.

MR. WELCH: I offer those in evidence. We will supply copies of those for the record.

(The booklets referred to were thereupon received in evidence and marked by the stenographer "Respondent's Exhibits Nos. 4, 5, 6 and 7," respectively.)

By MR. WELCH:

Q. Now, to whom is Respondent's Exhibit No. 7, called "How to Sell," issued?

A. That is the textbook for the boys.

Q. How is that delivered to the boys?

A. We have sent that, for years, to each boy, immediately upon the boy's selling.

Q. When he is starting to sell for the Curtis Publishing Company?

A. Yes, sir.

Q. To whom is Respondent's Exhibit No. 6, called "The Curtis Plan for Boys," issued?

A. This was issued in connection with our League plan, in connection with the arrangements made with the Y. M. C. A., whereby each League member, upon qualifying as such, has his League membership fees paid by us, if there is a Y. M. C. A. in the town.

Q. League membership fees in the Y. M. C. Association?

A. In the Y. M. C. Association.

Q. This was sent to Y. M. C. A. secretaries?

A. I think so.

Q. I refer to Respondent's Exhibit No. 6. To whom was Respondent's Exhibit No. 5 issued, and how many times has that been issued?

A. There have been several reprints of that.

Q. To whom was it issued?

A. It was issued to mothers of prospective "Post" boys, to a number approximating one million.

Q. To whom was Respondent's Exhibit No. 4, called "Schooling for Vocations," issued, and is that issued right along?

A. I think this has gone to the parents of all our boys. I think it has gone——

Q. Don't you know?

A. It has gone to the parents of our boys. It has gone to teachers of boys who applied for membership in the League. District agents have all copies of it, and our road men and other folks—I don't remember.

Q. That is still being issued?

A. Still in stock.

Q. And how long has that been issued—how many years, do you know?

A. Approximately two years, I think.

Q. In addition, as you have testified, as I understand it, Mr. Douglas, to the four publications that I have just questioned you about, you publish and distribute other circulars and periodicals to the boys?

A. Yes.

Q. And to various other persons in connection with their duties?

A. Yes.

Q. Mr. Douglas, you spoke about holding conventions at various times?

A. Yes.

Q. Were those conventions for the boys or for the district agents?

A. The conventions have been for district agents. The boy meetings that I spoke of have been meetings in charge of an individual road man, but the conventions have been attended by our district agents generally, and by our road men.

Q. What do those conventions consist of?

A. Well, for example, the last district agents' con-

vention we had was in Spokane, and we invited to the Spokane convention at the Davenport Hotel there all of our district agents in the Provinces of Manitoba, Saskatchewan, Alberta, British Columbia, Washington, Oregon, Idaho, Montana, Wyoming and I think Colorado. In that same way we have held conventions at San Francisco.

Q. How many were present at that convention?

A. I have not the exact number, but it ran into hundreds. There were several hundred district agents present at that convention.

Q. Who paid the cost of this convention?

A. We did.

Q. Have you any figures showing what they cost in 1913 and 1916, say?

A. Yes; our total convention costs have been $66,144.00.

By Mr. Daly:

Q. What year?

A. That is from 1913 to date.

By Mr. Welch:

Q. What is the figure?

A. Sixty-six thousand one hundred and forty-four dollars.

Q. What other conventions have you held, since that Seattle convention, just roughly?

A. Seattle was the last one for district agents. Before that we had conventions for district agents in Philadelphia, in Detroit, St. Paul, Atlanta, Dallas, Kansas City, Indianapolis, New York City, Boston, Chicago, San Francisco, Cleveland, Columbus.

Q. Extending over a period of years?

A. Over a period of years.

By Mr. Daly:

Q. As I understand it, the $66,000——

Mr. Welch: $66,000 from 1913 to date.

MR. DALY: Covered all of the conventions held during that period?

MR. WELCH: Yes. Is that correct?

THE WITNESS: That $66,000 included the cost of those conventions of district agents, and also the cost of conventions of our road men. We have had road men's conventions each year, from 1913 down to date. I can give you those figures separately, if you want it.

By MR. WELCH:

Q. About what would you say, roughly, would be the proportion of the conventions for the district agents and road men—the cost?

A. Forty-seven thousand dollars for the agents, roughly, that is, and about $17,000 for road men, and there was one small item for a convention at which a number of both were present.

By MR. DALY:

Q. The road men's convention—was that for the benefit of the road men?

A. Meetings of our road men, in order to give them our ideas as to our plans of dealing with these boys—handling this boy business—educational meetings.

By MR. WELCH:

Q. Now, you spoke of memberships in the Y. M. C. A., for which the Curtis Publishing Company paid to certain boy members of the Curtis League. State approximately how much the Curtis Publishing Company had paid to the Y. M. C. Associations for memberships for their boy salesmen?

A. I think it is just under five thousand dollars.

Q. During what period?

A. Two years.

By MR. SPIESS:

Q. The last two years?

A. The last two years.

By MR. DALY:

Q. Did you do that prior to that time?

A. Maybe I had better say two or three years. The bulk of those payments, however, have been—they are increasing. It will get more, every year, as the boys come in.

By MR. WELCH:

Q. Have you got a list there? See if you have the dates?

A. I have a list here. I think that is substantially correct. I think the item is $4903, to be exact.

Q. Now, are there any other expenditures that you wish to speak about, with reference to the boys, or with the district agents, other than you have mentioned? I do not mean any figures, but I mean any general expenses.

A. We have had very large expenses for prize payments from our contests.

MR. DALY: I object, Mr. Welch. Cannot he say how much, somewhere near? Strike out that "very large."

MR. WELCH: Yes; take out that "very large."

By MR. WELCH:

Q. Just state as briefly as you can the various moneys paid out to boys, or the agents, for prizes or bonuses and things of that sort.

A. Take the year 1916, our prize payments to boys and agents—sub-agents—amounted to $81,141.83.

Q. That was for the year ending June 30, 1916?

A. For the year ending June 30, 1916. During the same year, the cost for articles given in connection with the voucher plan was $82,225.13 additional. The Boy Scout and Curtis League payments during that year amounted to $20,973.86. That was all of the expenses in connection with those two items. The expenses of our road men during that same year——

Q. I am talking about what you did with the boys and agents in the way of prizes and rebate vouchers and things of that sort. I don't want the expenses of the road men.

A. Yes. Now, the postage in connection with giving out——

Q. No; there is no use in going into that at the present time. I want to get the question of prizes and moneys given out to boys and agents, you know—not expenses as such. You have given those figures for June 30, 1916. Will you give the same items for June 30, 1917?

A. Prizes, $56,964.94. Rebate voucher plan, $69,706.91. Boy Scouts in the Curtis League, $10,158.23.

Q. Now, by prizes and rebate vouchers, what do you mean? Just define that.

A. In connection with prizes, we mean the awards from competitive orders. The rebate vouchers, the expense in connection with that plan has to do with awards of a non-competitive nature, where each boy is up against himself—of a personal achievement offer rather than a competitive offer.

Q. And the figures that you mentioned represent the cash either paid out by the Curtis Publishing Company, or the cash value of articles given by the Curtis Publishing Company; is that correct?

A. Yes.

Q. Now, will you give the same three items for the year ending June 30, 1915?

A. Prizes, $52,746.29. The voucher plan, $73,488.56.

By Mr. Spiess:

Q. How about the Boy Scouts?

A. That item does not appear here. It may be that it was listed under sundries at that time. I cannot answer.

By Mr. Welch:

Q. That is, you have not got the Boy Scout item as a separate item for the year ending June 30, 1915?

A. Not as a separate item, no.

Q. Will you give the amounts paid out by the Curtis Publishing Company, for the same items, for the year ending June 30, 1914?

A. Prizes, $31,213.33. Rebate voucher plan, $57,569.99.

Q. Have you any separate figures for that period, showing Boy Scout payments?

A. No.

Q. Are they included in the figures you have given?

A. No.

Q. They would be in addition to the figures you have given?

A. Yes; if there were such expenses in that year.

By Mr. Daly:

Q. Well, were there any?

A. There were none. There were no Scout items in that year.

By Mr. Welch:

Q. Are there any other items?

A. There are items——

Q. Now, wait a minute. Get it straight on the record. Are there items for the Boy Scouts in the Curtis League for the year ending June 30, 1915?

A. There are Scout items for the year ending June 30, 1915, but I am unable to give you what they are, as they are merged with sundries.

Q. Then the Scout items are additional to the figures that you have given for prizes and for rebate vouchers for the year 1915?

A. Yes, sir.

Q. What was the last year that you gave just now?

A. 1914.

Q. Now, will you give the amounts paid by the Curtis Publishing Company for the same items, for the year ending June 30, 1913?

A. Prizes, $60,069.66.

MR. DALY: I do not see the materiality of these, way back.

MR. WELCH: I am not going back any further.

THE WITNESS: The voucher plan, $29,427.88.

By MR. WELCH:

Q. There were no Scout or Curtis League items?

A. No, sir.

Q. Mr. Douglas, were payments made by the Curtis Publishing Company for the items that you have been mentioning—that is, prizes and rebate vouchers for some years prior to 1913?

A. Yes, sir.

MR. DALY: We think, Mr. Examiner, he has gone about far enough on that.

MR. WELCH: I am not putting in any more figures. I want to show, Mr. Daly, that payments were made before that.

By MR. WELCH:

Q. What was the answer?

A. Yes.

Q. How many branch offices does the Curtis Publishing Company maintain in the United States?

A. Six.

Q. For sales?

A. Yes, sir.

Q. Where are they?

A. Boston, New York, Toronto, Chicago, San Francisco and Philadelphia.

Q. Describe those branch offices—what do they consist of?

A. These branch offices are in charge of managers with a staff of assistants, clerks and stenographers

and equipment commensurate with the volume of business handled by those branches.

Q. Are the branch managers and persons you have described salaried employees of the Curtis Publishing Company?

A. Yes, sir.

Q. What is the business that is conducted at these branch offices—is it sales business of the Curtis Publishing Company?

A. Yes, sir; sales business entirely.

Q. It has nothing to do with the subscription business?

A. Nothing to do with subscriptions.

Q. Their services and duties are confined entirely to the sales branch of the business, as I understand it?

A. Wholly; yes, sir.

Q. Mr. Douglas, at page 1300 of the testimony, Mr. Rose referred to certain persons that he said were newspaper wholesalers, and, in this Chicago consolidation that has been testified to——

MR. DALY: What page is that on?

MR. WELCH: Page 1300—and he mentioned among these wholesale newspaper distributors, Ben Comenitz, at Davenport, Iowa, as having taken on the newspaper wholesale business under the consolidation in 1906. Was he one of "The Saturday Evening Post" boys prior to that time?

A. He was a "Post" boy in 1902. I have his photograph.

Q. What did he do after that with respect to the company?

A. After that he became district agent.

Q. Mr. Rose, at page 1302 of the record, in that same connection, mentioned Orcott Brothers, of Lincoln, Nebraska. Were these "Post" boys, prior to 1906, before the consolidation?

A. Joe Orcott was a "Post" boy prior to that

time, and I believe Joe Orcott and his mother and brother were in my office prior to that time.

MR. DALY: Doing what?

A. They came East, I think, upon a trip to a Presidential inauguration. I believe they won one of our Presidential inauguration trip contests, in 1902——

MR. DALY: Was he in your employ at that time?

A. He was a "Post" boy at that time.

By MR. WELCH:

Q. By "'Post' boy" you mean what?

A. A boy selling "The Saturday Evening Post."

Q. Were both Orcott boys "Post" boys?

A. I believe both Guy and Joe were. I think one of them was a salaried road man for us for about three years prior to that time.

Q. Before 1906?

A. I think so.

MR. DALY: Do not think about that—state what you know about that?

A. I will answer you exactly tomorrow.

MR. DALY: All right.

By MR. WELCH:

Q. You are quite certain that both of them were boys selling the "Post" approximately in 1902, and not later than 1903—you are sure of that, are you not?

A. They were selling just before the Presidential Inauguration about that time, and I think it was prior to 1906.

Q. Mr. Rose, at page 1300, in that same connection, refers to W. D. McFadden, of Decatur, Illinois. Was McFadden a boy selling "The Saturday Evening Post" before 1906?

A I do not know.

Q. Will you look that up and see?

A. Yes, sir.

Q. As to Comenitz and the Orcott brothers, you know they were boys selling "The Saturday Evening Post" prior to the date of this consolidation referred to by Rose?

A. I think so.

Q. Do you know, Mr. Douglas, or do you only think so? I want to know if you know or not.

A. I cannot fix the year. That is the point.

Q. Can you, by looking at your records, fix the year?

A. I do not think I can. I have exhausted everything I can to determine the date. I have them listed as prize winners away back of that date.

Q. Prior to that date?

A. 1906.

Q. That is exactly what we want.

A. But I cannot fix the date.

Q. It was prior to 1906, though?

A. Yes, sir; and I think they came East——

MR. DALY: You are speaking of McFadden now?

A. No, sir; the Orcott Brothers. I believe they came East to attend a Presidential inauguration as winners of one of our contests prior to that time.

MR. DALY: You know they came East and saw you?

A. Yes, sir.

By MR. WELCH:

Q. Mr. Douglas, will you give the cost to the Curtis Publishing Company of obtaining boys for district agents for the sale of their publications, if you have it, for the year ending June 30, 1916?

MR. DALY: It seems to me, Mr. Examiner, that that question ought to be led up to in some way. That is a very general question, and if you will couple that up, Mr. Welch, I will not——

MR. WELCH: I will do that.

By Mr. Welch:

Q. Will you state, briefly, how boys are obtained for the sale of "The Saturday Evening Post" and "The Ladies' Home Journal" and "The Country Gentleman"?

A. Through advertising, through circularizing and by our men and agents in the field.

Q. By advertising, you mean advertising in what?

A. Advertising in our own magazines and advertising in the newspapers.

Q. In the newspapers?

A. Yes, sir.

Q. And by circularizing, what do you mean?

A. The sending of announcements to the names of boys.

Q. The what?

A. The sending of announcements of offers to the names of boys.

Q. Where do you obtain the names from?

A. From schools and from various sources.

Q. Have you any figures there showing the cost of that advertising and circularizing and other expenses, if any, incurred in obtaining boys for the sale, through district agents, of your publications?

A. Well, our——

Mr. Daly: What period is this for?

By Mr. Welch:

Q. Have you got them for the period of the year ending June 30, 1916?

A. We spent for circularizing the names of boys during that year, for the purpose of getting boys, $48,538.

Q. What do you do with respect to giving copies to boys, when they commence to sell for the Curtis Publishing Company?

A. When a boy starts he is given a card. Upon

presenting the card to the district agent the boy is given five copies of the 'Post." He signs the card as a receipt and it comes in to us and we then reimburse —credit the district agent's account—correspondingly; that is, the boy is given five copies of the "Post."

Q. Free?

A. Yes, sir.

Q. Is he given any copies of the "Journal"?

A. If he succeeds with the "Post" he is given five of the "Journal" in the same way, and of 'The Country Gentleman."

Q. What has been, recently, the annual cost of these free copies given to the boys—have you any figures on that?

MR. SPIESS: Cannot you give us the number of free copies given?

MR. WELCH: I will ask him.

By MR. WELCH:

Q. Have you the figures as to the number of free copies given to the boys to start them?

A. Yes; the nine-year average, ended in 1911, for the "Post," was 546,000——

MR. DALY: Cannot you give these costs for years somewhere around the time we are inquiring about?

THE WITNESS: 27,000——

By MR. WELCH:

Q. Can you give any amounts paid out in the last three or four years, instead of taking nine years?

A. I am giving you the nine-year average.

MR. WELCH: He is just giving the nine-year average.

THE WITNESS: The nine-year average ended in 1911 was 546,000 odd copies.

MR. DALY: That is, of the "Post"?

THE WITNESS: Yes, sir; I have not got that

item separately since then—since 1911—but we know that the item has been approximately the same.

EXAMINER MOORE: Do you give current copies or old copies?

A. The boys sell them, the purpose being to supply the boy with capital with which to buy copies afterwards.

MR. DALY: What is the cost?

A. That amounts to $27,000 annually.

By MR. WELCH:

Q. As I understand, you furnish the boys with copies, and what do they do?

A. The boys sell the copies, and the receipts from the sales enables them to pay for the next issue.

Q. It starts them in business?

A. Yes, sir; with capital furnished by us.

Q. Have you any figures corresponding to the $27,000 for the "Post," for the "Journal"?

A. The "Journal" figure is approximately $19,000 annually.

MR. DALY: For the same period?

A. Annually approximately $19,000.

MR. SPIESS: For that nine-year period?

THE WITNESS: I have not the figures on the "Journal," because we were not selling the "Journal" away back there.

EXAMINER MOORE: Are the figures based on the cost to you or what you charge for them?

THE WITNESS: Based on the retail cost of the magazine, because it costs us more to produce and deliver them than we get for them.

By MR. WELCH:

Q. Mr. Douglas, when a district agent has applications made to him by boys, or obtains a boy, is anything paid to the agent? There has been some testi-

mony here about the payment of a dollar each to the agents.

A. The agent makes the same profit on copies——

Q. I am not talking about that. I am talking about what payments are made to the district agents when they obtain a boy or boys?

A. We have made offers in different years of a dollar apiece or two dollars apiece.

Q. Have you any figures showing the payments made by the district agents in 1917?

A. The total payments in 1917 were $3,471, not including the "want ad" advertising.

Q. I am talking now about payments made to district agents by the Curtis Publishing Company?

A. Three thousand, four hundred and seventy-one dollars.

Q. In 1917?

A. Yes, sir.

MR. SPIESS: For obtaining boys?

MR. WELCH: Yes.

MR. SPIESS: Was that open to all agents?

MR. WELCH: Ask Mr. Douglas.

MR. SPIESS: I will.

MR. WELCH: I will ask him.

By MR. WELCH:

Q. Were those payments distributed over the entire agency force?

A. Each agent was promised such payment upon doing the work.

Q. That is to say, the right to receive such payment was open to all of the district agents?

A. Yes, sir.

Q. Now, Mr. Douglas, a number of district agents of the Curtis Publishing Company were called as witnesses by the Federal Trade Commission and some of them testified that they reported a certain number of

boys and others were not asked any questions about boys. I wish to ask you with respect to certain of those witnesses as to how many boys were reported to the Curtis Publishing Company as Curtis boys?

MR. DALY: I did not hear that question.

(The stenographer repeated the question.)

MR. SPIESS: Will you give any names, Mr. Welch?

MR. WELCH: Yes.

By MR. WELCH:

Q. Have you that information?

A. Yes, sir.

Q. How many boys were reported by Mrs. E. A. Chatfield, of New Britain, Connecticut?

A. Thirty.

Q. As of what date—did you give that figure—was that for the present time?

A. Those would be March figures.

MR. DALY: Mr. Examiner, I think the question should certainly be confined to the time that Mrs. Chatfield was testifying about. I do not know when that was.

MR. SPIESS: Mrs. Chatfield did not testify.

THE WITNESS: Mr. Gurth, I believe, testified.

MR. DALY: She did not testify.

MR. SPIESS: The son-in-law, I believe, testified.

MR. SPIESS: It was not Smith, was it?

MR. WELCH: It was one of the first ones at Boston, I think.

THE WITNESS: I believe his name was Gerth.

MR. SPIESS: Page 851.

MR. DALY: The point I make is this, that if the report of the agent is to be admitted, then it ought to be a record corresponding with the time testified about by the witness Gerth.

By MR. WELCH:

Q. Let me ask you this question: After the testimony was given in this case, Mr. Douglas, by these various district agents, did I request you to go back immediately and check up the number of boys reported?

A. Yes, sir.

Q. Did you do so, immediately thereafter?

A. Yes.

Q. Are the figures that I have here now before me and that you have tabulated, the figures that you got out of your records in response to my requests?

A. Yes.

Q. Made right after the testimony was taken?

A. Yes, sir.

MR. WELCH: Is that near enough, Mr. Daly?

MR. DALY: And corresponding with the time.

MR. WELCH: That is just as near as you can get it.

MR. DALY: That is all right. How many more of those have you?

MR. WELCH: There are not so very many of them here.

By MR. WELCH:

Q. Now, how many boys were reported by Mrs. E. H. Chatfield?

A. Thirty.

Q. How many boys were reported by Kennell Brothers at or about the time referred to, of Elgin, Illinois, who mentioned no boys at all?

A. Twenty-three.

Q. How many boys were reported at or about that time, by Peers Brothers, of Mishawaka, Indiana?

A. Twenty-two.

Q. How many boys were reported by H. H. Jefferson, of Terre Haute, Indiana?

A. One hundred and four.

Q. How many boys were reported at that time by Meyer Reiser, of Boston, Massachusetts?

A. Two hundred and ninety-one.

Q. How many boys were reported by Mishara, of Boston, Massachusetts?

A. Forty-eight.

Q. How many boys were reported by M. Schlafman, of Haverhill, Massachusetts?

A. Fifty-nine.

Q. How many boys were reported by F. C. Seguin, of New Bedford, Massachusetts?

A. Fifty-one.

Q. How many boys were reported by G. H. Hunt, of East Weymouth, Massachusetts?

A. Twenty-one.

Q. How many boys were reported by J. W. Hefferman, of Northampton, Massachusetts?

A. Five.

Q. How many boys were reported by George A. Wood, of Taunton, Massachusetts?

A. Nineteen.

Q. How many boys were reported by R. Woodstock, of Springfield, Massachusetts?

A. Sixty-one.

Q. How many boys were reported by D. Bolan, of Worcester, Massachusetts?

A. One hundred and fourteen.

Q. How many boys were reported by L. H. Cooper, of Attleboro, Massachusetts?

A. Twenty-one.

Q. How many boys were reported by Dreher, of Battle Creek, Michigan?

A. Twenty-seven.

Q. How many boys were reported by J. Monroe, of Hillsdale, Michigan?

A. Fourteen.

Q. How many boys were reported by H. P. Re, of Coldwater, Michigan?

A. Twelve.

Q. How many boys were reported by Solomon of Detroit?

A. One hundred and fifty-four.

Q. How many boys were reported by C. C. Hall, of Kalamazoo, Michigan?

A. Fifty-three.

Q. How many boys were reported by T. M. Shaw, of Grand Rapids?

A. Eighty-four.

Q. State the number of boys reported, beginning at Racheles?

A. Thirty-six.

MR. DALY: Where is he from?

THE WITNESS: Passaic, New Jersey, Mr. Suttle, of Paterson, New Jersey, 72.

By MR. WELCH:

Q. Give the initials?

A. W. T. Suttle that is, and S. Racheles. Mr. G. Schneider of New Brunswick, New Jersey, 51. Mr. N. Okin, of Hackensack, New Jersey, 22. Mr. Braelow, of Newark, 295. Mr. J. C. Ramroth, of Troy, New York, 74. Mr. W. O'Reilly, of Kingston, New York, 24. Mr. R. J. Callahan, of Albany, New York, 130. Mr. A. M. Pierson, of Binghamton, New York, 75.

Q. How many boys were reported by Silverstein, of Providence, Rhode Island?

A. One hundred and nine.

EXAMINER MOORE: We will take a recess until tomorrow at 10.30 o'clock, at Court Room No. 2 in the Woolworth Building.

(Whereupon, at 4.45 P. M., recess was taken until tomorrow April 17, 1918, at 10.30 A. M.)

BEFORE THE FEDERAL TRADE COMMISSION.

*The Federal Trade Commission*
v.
*The Curtis Publishing Company.*
} Docket No. 15.

Court Room 2, Woolworth Building,
New York City, N. Y.,
Wednesday, April 17, 1918.

The hearings in the above-entitled matter were resumed at 10.30 o'clock A. M., pursuant to adjournment.

Before: Examiner CHARLES S. MOORE.

Appearances: MESSRS. A. M. DALY and L. A. SPIESS, on behalf of the Commission, and JOSEPH W. WELCH, Esq., and JOHN G. MILBURN, JR., Esq., on behalf of the Curtis Publishing Company.

## PROCEEDINGS.

MR. DALY: Mr. Examiner, for the sake of the record, and to clear up about the objections I made yesterday as to the admission of certain testimony, I want to state again the fact that the respondent built up an organization, at a large expense, and consisting to a large extent of an organization of boys, could not be a defense, either under Section 3 or Section 5, and, therefore, I made the objection to the testimony along that line yesterday, and I now make it again for the sake of the record.

Mr. WELCH: Mr. Examiner, I only want to say

a word. In addition to the reasons that I stated yesterday why this evidence should be admitted as material, I would like to call the Examiner's attention to the fact that all through the Commission's case the question of boys was brought out by the learned counsel for the Commission, and brought up as a part of their case. As an instance, I will cite Mr. Welker's testimony, when he was asked by Mr. Daly was the boy plan that he was interested in similar to the Curtis boy plan. Of course, there was an effort on the part of the Commission to make a comparison between a boy plan which was alleged by this witness to have been in existence in early days, and what we claim to be the Curtis plan. We say that line is sufficient alone to open the door for us to go in and show what our plan is and what way it was built up. In addition to that almost every one of the witnesses that was called by the Commission on the western trip, and a great many that were called on the New England hearings, were questioned in the first instance by Mr. Daly as to boys; as to whether they had any Curtis boys, and many other questions relating to boys; as to what magazines they sold and whether they sold other magazines than Curtis magazines. So that the question of boys was introduced into this case and came into the case first by the Commission's own witnesses. In addition to that, I want to state that, as I briefly said yesterday, the materiality of this boy evidence seems to be very clear when you consider the respondent's contention that the primary reason for the appointment of its first district agents was to take care of this large army of boys that they had organized; that that was the beginning of their circulation through district agents. That right straight through, up to

the present time, this boy organization has been maintained, and that it is an integral part of a district agent's function to look after these boys, and it is a very potent reason why we should insist that we have the right to say to these district agents—to say to our men—that you cannot handle other magazines without permission from us, for various reasons, among them—and a very strong reason—that these boys we claim to be our boys, fostered by us and built up in their organization by us, and that is, as I say, one of the reasons why we claim this right that we exercise under our contract. So that the boys and the boy activities in this case are so interwoven with the district agents that any attack upon the district agents must necessarily involve the question of the duties of the boys. Now, so far as the expense involved in this question is concerned, we say that we are entitled to show the expense of this whole organization, including the boys as well as the agents. There has been testimony here about the expense of distributing through wholesalers — so-called wholesalers—and through the American News Company. Lots of testimony of that sort and all of these figures that we have put in clearly go to show the expense of maintaining this entire organization, which consists not only of district agents, but boys as well. In fact, the boys are a very strong part of this distributing organization, we claim. I submit that the evidence is entirely material and competent in this case.

EXAMINER MOORE: The Examiner's ruling on this objection and to the objection raised yesterday, which will be found on pages 1794 and 1811 of the record, is that it will be overruled. You may proceed, Mr. Welch.

M. E. DOUGLAS was recalled as a witness on behalf of the respondent, and testified as follows:

DIRECT EXAMINATION (Continued).

By MR. WELCH:

Q. Mr. Douglas, yesterday you were uncertain as to whether the Orcutt Brothers that were referred to by Mr. Rose in his testimony had been "Post" boys, prior to 1906. Have you since looked that matter up?

A. They were "Post" boys, prior to 1906.

Q. With respect to Ben Comenitz, referred to by Rose, are you positive that he was a Post boy prior to 1906?

A. He was a "Post" boy in 1902.

Q. Would the date with respect to the Orcutt brothers apply to both of them?

A. Approximately.

Q. They were both of them "Post" boys prior to 1906, or only one?

A. Both of them.

Q. Yesterday you testified, as shown at page 1847 of the record, in answer to my question as to how many boys there were at the present time selling Curtis publications, that there were about forty thousand, and you later testified that between thirty-three and thirty-five thousand boys were reported to the Curtis Publishing Company by the various district agents. Will you explain how the five thousand or seven thousand boys, being the difference between those two figures, are supplied by the Curtis Publishing Company?

A. Direct from the Philadelphia office and branch offices by me.

Q. That is to say, in addition to the thirty-three or thirty-five thousand boys that are reported by District agents, there are from five to seven thousand more that are supplied direct by the Curtis Publishing Company?

A. Yes, sir.

Q. And that makes the forty thousand that you spoke of when you first answered?

A. Yes.

Q. Now, will you state what the League of Curtis Salesmen is and what the requirements are for a boy becoming a member of that league.

A. The league is an organization of boys, designed to stimulate the boys to personal achievement, and encourage them to better work in school as well as in selling our magazines. It is the combination of our effort to break down that prejudice that I testified to yesterday.

Q. What requirements are there for a boy to become a member of the League of Curtis Salesmen?

A. First of all, the boy must apply for membership upon one of our blanks, and to become a member he must have sold one Curtis publication for not less than three months, and he must be selling all three at the time he is appointed a member.

By Mr. Daly:

Q. Have you not a regular plan of it?

A. It is outlined in some of the sample matter that we put in.

Mr. Daly: Maybe we can shorten it.

Mr. Welch: I am going to try to shorten it.

The Witness: Then he must also sell representative numbers of copies as a sales requirement, and he must have had a perfect record for promptness in ordering and remitting, for at least a month prior to the appointment.

By Mr. Welch:

Q. Must he have any school record?

A. He must attend school regularly. He must be a schoolboy.

Q. Is membership in the League of Curtis Salesmen open to any boy that qualifies for it?

A. Open to any boy that qualifies for it according to those specifications.

Q. What are the different grades in the league?

A. There are three grades in the league proper, and there are four grades below the league.

Q. State the three grades.

A. The three grades in the league—first, the members of the league, then expert salesmen and master salesmen. The requirements vary.

Q. What other grades did you speak of?

A. Expert salesmen, next above membership in the league, and the highest rank is that of master salesman.

Q. When a boy becomes a master salesman, does he get any benefit in respect to Y. M. C. A. membership?

A. As soon as he becomes a member of the league he is privileged at our expense to join the local Y. M. C. A., provided he meets the local standard of the local Y. M. C. A. standards, and we will pay those fees. Our effort has been to bring as large a number as possible of our boys within the influence of the Y. M. C. A.

Q. Now, what, if anything, do you do with respect to obtaining positions for boys after they leave the league?

A. Any boy who becomes a master salesman has our unconditional guarantee to obtain a good salaried position for him, upon request of his parents, after he finishes school.

Q. Have you many applications for boys from various concerns?

A. We have two thousand of some of the best concerns in the country who have registered with us applications for the privilege of interviewing these boys with a view to employment.

Q. Do you guarantee getting the boys these positions?

A. We do.

Q. Yesterday, copies of the various publications were put in evidence, among them "The District Agent" and "Our Boys" and "The Counselor." I want to ask you the cost to the Curtis Publishing Company of publishing and distributing "Our Boys"?

A. This ranges from $575 to $750 a month for printing.

Q. It is sent by you, free of charge, to the boys?

A. Yes.

Q. Is it published monthly?

A. Monthly.

Q. What is the cost of publishing and circulating "The District Agent" — the publication called "The District Agent"?

A. I would like to make a correction there. I said I think $550 to $750. It ranges from $550 to $860.

Q. What are you talking about now?

A. The cost of "Our Boys."

MR. DALY: The cost of the other publications.

The WITNESS: The cost of "Our Boys."

By MR. SPIESS:

Q. What period?

A. Those are figures running through 1911 to 1918.

By MR. WELCH:

Q. That is $550 to what?

A. $550 to $860 per month.

Q. $860 per month?

A. $860 per month.

Q. Give the cost of publishing and distributing the publication called "The District Agent"?

A. That has ranged from $120 to $190 per month.

Q. Is that published monthly?

Q. Monthly.

By Mr. Spiess:

Q. The same period?

A. Those figures range through 1911 to 1917.

By Mr. Welch:

Q. What is the cost of publishing and distributing "The Counselor"?

A. That has ranged from $285 to $450 a month, 1916 and 1917.

Q. Do any of those figures that you have given with respect to "Our Boys" and "The District Agent" and "The Counselor" include the mailing cost?

A. No.

Q. That is only the printing cost that you have given?

A. Yes.

Q. Have you the figures with respect to printing the other publications you mentioned—"Our Teams" and "The News Dealer" and "The Scout Finance News"?

A. Yes.

Q. Give those please.

A. "Our Teams" ranged from $460 to $589 a month. Those figures are 1911 to 1912. We did not keep them separately in the years 1908 to 1910. "The Scout Finance News" ranged from $149 to $154 a month. Those figures are 1915 and 1916. "The News Dealer" ranged from $168 to $260 per month, the years 1912 and 1915.

By Mr. Daly:

Q. Does that go to the boys?

A. "The News Dealer" didn't.

By Mr. Spiess:

Q. All the rest did?

A. (No response.)

By MR. WELCH:

Q. All of the rest, except "The District Agent"?

A. Except "The District Agent."

By MR. WELCH:

Q. Have you any figures on the cost of the additional printed matter, pamphlets, etc., issued to the parents, banks, etc.?

A. Yes, sir.

Q. Just give that lump figure, if you have it.

A. The total expenses for additional printed matter of an educational nature, from 1912 to 1917, were approximately $35,156.38.

MR. DALY: How much is that?

MR. SPIESS: $35,156.38.

By MR. WELCH:

Q. At the present time, state the proportion of "Saturday Evening Posts," or state whether, with respect to the "Saturday Evening Post" the boys or the retail dealers sell more copies?

A. The boys sell more copies than the retail dealers.

Q. How is that with respect to the "Ladies' Home Journal"?

A. The dealers sell slightly more than the boys.

Q. Have you any figures showing the proportions?

A. The boys sell 350,000 to 400,000 copies of the "Journal" monthly.

MR. SPIESS: What is that?

The WITNESS: The boys sell 350,000 to 400,000 copies of the "Journal" monthly.

MR. SPIESS: Of the "Journal"?

The WITNESS: Yes, of the "Journal."

By MR. WELCH:

Q. How about the "Post"—have you those figures?

A. I have not the exact figures on the "Post." I have not counted them.

MR. SPIESS: Do you want an approximation?

By MR. WELCH:

Q. Can you give us an approximation?

A. I have made calculations in years gone by at various times, and of our sales edition the boys sell approximately 55 per cent., as near as I can get at it, on the basis of the State's figures. We never did figure the whole country, but have taken different States at different times.

Q. Mr. Douglas, how has the Curtis Publishing Company selected and found its district agents in later years and up to the present time?

A. By application from persons desiring appointment and through roadmen.

Q. Did you ever have any recommendations from any associations?

A. Yes; in connection with the league, and our associations with the Y. M. C. A., we have, for example, from time to time, had suggestions from the Y. M. C. A. secretaries that better co-operation between our organization and theirs could be had locally if changes in our local agencies were made, and upon such occasions we have acted upon the suggestions of the Y. M. C. A. secretaries.

Q. You say one of the methods of locating and selecting the district agents is through the roadmen. What character of men are the roadmen instructed to obtain and do generally obtain?

A. They are instructed to obtain men qualified for leadership of these boys; generally speaking, chiefly retailers and boys, but not always that. For instance, we have some superintendents of schools that are acting as district agents?

Q. State where.

A. In Pittsfield, Mass., we had until recently a superintendent of schools as district agent. His son is a district agent now, and there are others.

Q. What other character of men have you had?

A. We have had Y. M. C. A. secretaries act as district agents.

Q. Have you any now?

A. I think there are several now.

MR. DALY: I understand that that testimony means that certain district agents are selected, and his present testimony is showing that they are selecting men of the character of school teachers, etc., but they are not wholesalers—wholesale dealers. That is the line of testimony you are going on now, Mr. Welch—is that what he means to testify to?

MR. WELCH: Well, I do not——

MR. DALY: That these school teachers and Y. M. C. A. men would be their local agents and not the ones we have been talking about in this paragraph of the complaint about this contract?

MR. WELCH: No; not that they are the usual agents, but that they are among the agents selected by the Curtis Publishing Company. I merely want to show, Mr. Daly, that there is no designated class of persons, such as has been brought up and spoken of in this case by the term "independent wholesaler" that acts as Curtis district agent. The men who are acting as Curtis district agents are made up of a variety of occupations—retailers, boys, principals of schools, etc.

MR. DALY: I just wanted to get the idea clearly in my mind.

MR. WELCH: There are some, maybe, who are wholesalers of papers and periodicals. There is no definite character of man, as the Commission has alleged in the complaint, and as the testimony

of the Commission's witnesses endeavors to show, that the Curtis Publishing Company has gone out and picked up and nailed down as their agents.

The WITNESS: In Dubuque, for instance, the agent was D. B. Schick, manager of an advertising agency.

MR. WELCH: The idea of this was to show the diverse character of these men.

MR. DALY: I just wanted to get the idea clearly in my mind.

MR. WELCH: Very well.

By MR. WELCH:

Q. Will you state the character of other businesses from which agents are selected.

A. In another place we have the proprietor of a large lumber company. We had occasion to investigate this matter, and this lumber company is rated at a million dollars. This man signed the contract. His son is acting as district agent. We have many other persons —adults—who are doing it in the interest of the boys, just as men are engaged in Y. M. C. A. work and Boy Scout work. So it is that men are acting as district agents for us because they see in it an opportunity to be of service to the boys in the particular communities. We have a number of Scout masters who are acting as district agents for us.

Q. By that you mean masters of Boy Scout organizations?

A. Yes, sir; leaders of troops.

Q. Mr. Douglas, was that letter (exhibiting to witness) written and sent to the Curtis Publishing Company by Dr. Eliot, President of Harvard?

A. Yes, sir.

MR. WELCH: We offer that in evidence.

(The letter referred to was thereupon received in evidence and marked by the stenographer, "Re-

spondent's Exhibit No. 8." The same is as follows:)

RESPONDENT'S EXHIBIT No. 8.

"Cambridge, Mass.,
27 April, 1916.

My dear Sir:

The method of the Curtis Publishing Company in enlisting a large number of boys who are still at school in selling its publications, and teaching them how to sell the journals to the advantage of the company and to their own profit, gives a useful example of co-operation between schools and industrial companies in the training of boys. It is a first-rate example of vocational training, given by a commercial company during the period of school life.

The Curtis Publishing Company's method has proved successful in several important respects: First, it has provided the company with a large body of effective young distributors of its products; secondly, it has kept thousands of boys in school longer than they would otherwise have stayed there; thirdly, it has taught them thrift and accurate accounting — an invaluable lesson; fourthly, it has given many thousands of boys a knowledge of the art of selling journals which easily becomes available in many other businesses; fifthly, it places many boys in good situations on well-grounded recommendations, when, being fit for larger service, they leave the employ of the Curtis Publishing Company. The Curtis method has thus been of great service not only to more than 50,000 boys but also to employers in a large variety of industries.

It should be clearly understood that boys who avail themselves energetically of the offers of the

Curtis Publishing Company can still have half of their afternoons for play, and can earn by diligence out of school hours, not only their pocket money, but a considerable savings-bank deposit in the course of four or five years. The winning of this deposit is likely to affect beneficially the whole future career.

Sincerely yours,
CHARLES W. ELIOT.

MR. A. J. HOLL."

By MR. WELCH:

Q. Will you state, beginning with the year ending June 30, 1908, the total sales division expenses of the Curtis Publishing Company, without giving particular items?

A. I can give the total except for one item, which we do not have segregated separately, and which I cannot get at this time.

Q. State the total and state the item that is not included in it.

A. The total for the year ending June 30, 1908, was $262,272.28, not including the cost of mailing, freighting and expressing sales division copies.

MR. SPIESS: You say the total for the year ending—does that take in only one year?

The WITNESS: The year ending June 30, 1908.

By MR. WELCH:

Q. Would that item omitted be a very substantial amount?

A. Yes, sir.

Q. State the sales division expenses for the year ending June 30, 1909, and any item not included.

A. For that year, with the same elimination, the total was $376,677.42.

MR. DALY: It seems to me, Mr. Examiner, that going back that far, I cannot see how that could in

any way have any bearing upon this case. I am very anxious to get in everything, and let the respondent show his case, but what bearing does that have?

MR. WELCH: It has been testified in this case, Mr. Examner, that it is cheaper to do business through the wholesalers than through the American News Company. I propose to show exactly the cost of doing business through the wholesalers or such district agents as we have acting as wholesalers, and I think this evidence is material. As far as going back ten years is concerned, I am content to go back five years and show the expenses. It will take but a very short time, however, to show ten years back.

EXAMINER MOORE: You are not objecting, are you, Mr. Daly?

MR. DALY: I do not recall any testimony where we were showing that it was cheaper to do business through the American News Company or that it was more expensive. Where is that testimony? I do not think there has been any contention of that kind made.

has alleged in the complaint, and as the testimony

MR. WELCH: Mr. Mackinnon gave the testi-

MR. DALY: That was on cross-examination, was it not? We did not put in any such case. We confined our testimony, as I recall it, to the efficiency of the plan of distribution. Further, unless the costs of the——

MR. WELCH: Let me interrupt you a minute, Mr. Daly. On page 142, on direct examination, Mr. Mackinnon testified it is much cheaper to do business directly through the wholesaler than——

MR. DALY: Is that on cross-examination?

MR. WELCH: On direct examination, on page 142 of the record.

MR. DALY: How do you propose to show by these figures——

MR. WELCH: Mr. Mackinnon did not put in any figures. I am trying to show what the expenses of that distribution are to us. There are figures in the record galore as to the cost of distribution through the American News Company, and our contention is that the statement it is much cheaper to do business through the wholesalers than the American News Company is not borne out.

MR. DALY: I do not think the putting in of these figures, no matter what they may show, would prove it was cheaper or anything else.

MR. WELCH: Mr. Mackinnon testified the American News Company pays 8¾ cents, and they pay all expenses. There is no cost through the News Company except a small shipping cost.

MR. DALY: I do not see how there can be any comparison made about these costs. The fact it costs two or three hundred thousand dollars a year to run this sales division does not prove anything to me.

MR. WELCH: Does it not prove as much as a statement by your own witness in a broad, general way that it costs less to do business through the wholesalers than through the News Company? Certainly there is no very conclusive proof in a statement of that kind. I want to show that his figures are incorrect.

MR. DALY: Then confine your figures to the last four or five years.

MR. WELCH: Very well.

By MR. WELCH:

Q. Begin with the year ending June 30, 1914, and state the sales division expenses.

A. For that year we have the total expenses, in-

cluding the postage, freight and express items that I did not have before, in the preceding years, and for that year it was $1,205,701.15.

Q. And for the year ending June 30, 1915?

A. $1,335,656.02.

Q. And for the year ending June 30, 1916?

A. $1,501,548.44.

Q. And for the year ending June 30, 1917?

A. $1,498,188.71.

Q What was the approximate date or time of the first contract of the Curtis Publishing Company with any of its district agents, which contains a clause similar to clause 13 in the old contract, requiring that the agent obtain permission from the publisher before wholesaling other publications?

A. 1911.

Q. What month—do you remember?

A. Approximately in April.

Q. What were the facts that led up to the Curtis Publishing Company putting that clause in its contracts?

MR. DALY: Is this the contract that is in evidence, Mr. Welch?

MR. WELCH: I will ask that, Mr. Daly.

BY MR. WELCH:

Q. Was the clause referred to that you say was first incorporated in the contract in 1911, requiring the district agent to obtain permission from the Curtis Publishing Company before wholesaling other magazines, the same and similar in effect to the clause 13 in the form of contract that has been put in evidence in this case, and as the clause containing a similar requirement in the new form of contract?

A. Yes.

MR. WELCH: Is that sufficient, Mr. Daly?

MR. DALY: Yes.

MR. WELCH: Please read the other question.

(The stenographer repeated the question as follows:)

"Q. What were the facts that led up to the Curtis Publishing Company putting that clause in its contract?"

A. We found that other magazines and firms were seeking to use our boys and agents and were obtaining names and lists thereof.

By Mr. Welch:

Q. What kind of people are you referring to now?

A. Magazine publishers and other firms.

Q. What sort of other firms?

A. Well, we had been approached—our agents have been approached by various firms of different sorts; for instance——

Q. What sort of firms—firms of publishers or other character of firms?

A. Both.

Q. State some of the characters?

A. Manufacturers of bluine, pens——

Q. Manufacturers of soap and things of that sort?

A. Soap.

Q. All right; go ahead.

A. Then we had thrown the "Journal" open to our agents, and our agents had all that they could do to measure up to our expectations—to fulfill their duties to us, without taking on everything else that came along, and so we decided to put that clause in our contract, in order that we might enjoy the services by the district agents contemplated by us in the beginning.

Q. Mr. Welker testified, as shown on page 109 and page 111 of the record, that about the time this clause referred to was incorporated in your contracts with the district agents, he had a talk with you, and you admitted, or stated to him that you thought that con-

tract was not good from a legal standpoint. Did you ever make any such statement as that to Mr. Welker?

A. I never did to Mr. Welker nor to anybody.

Q. Did you, at that time, have any thought or doubt that that clause in the contract was in any way illegal or objectionable?

A. Positively not.

Q. At the time that contract was put into effect, had the entire contract been submitted to Mr. John G. Johnson of Philadelphia?

A. It had.

MR. DALY: I object to that.

MR. WELCH: I cannot see why. It has been stated here——

MR. DALY: It would not make it any more legal no matter what Mr. Johnson said.

MR. WELCH: But it has been stated here that Mr. Douglas stated the contract was not legal.

MR. DALY: He has contradicted that now and stated he did not say it.

MR. WELCH: I will ask you this—on what did you base your idea that you stated you had, that this contract was in every way legal and unobjectionable?

MR. DALY: I think he has gone far enough when he says he denies this and did not say it to anybody, and if 400 lawyers stated to him that that contract was all right, it would not make it any better.

By MR. WELCH:

Q. Mr. Douglas, Mr. Beck, Mr. Mackinnon and Mr. Smith, all witnesses called by the Commission, have testified in effect, that there are only about 1400 or 1500 wholesalers in the country, and there is generally only one in a town, and that in most instances the newspaper wholesalers, as Mr. Beck has testified, are under

the Curtis contract. Have you made an investigation as to those matters?

A. I have.

Q. How many district agents did this investigation of yours cover?

MR. DALY: I do not want to direct the examination at all, but the character of the investigation he made—when was it made?

MR. WELCH: Do you want me to ask him that?

MR. DALY: I would like to know what kind of an investigation it was.

By MR. WELCH:

Q. Please state, Mr. Douglas, what investigation you made as to this matter?

A. We sent our road men right into these towns.

Q. Did they personally go into the towns?

A. These road men went personally to the towns.

By MR. DALY:

Q. All over the country?

A. Yes, sir.

By MR. WELCH:

Q. How many district agents did they personally see or have personal communication with? Fourteen hundred and fifty-six, is it not?

A. Fourteen hundred and fifty-six.

By EXAMINER MOORE:

Q. How many road men have you?

A. Fifty on this work, not including our branch managers.

MR. DALY: They covered the whole United States?

MR. WELCH: I will state, Mr. Examiner, that this testimony of Mr. Douglas is a summary of all of the investigations of these road men, and that

we propose to put these road men all on the stand, to substantiate Mr. Douglas's testimony.

EXAMINER MOORE: Fifty of them?

MR. WELCH: As many as necessary, unless we can—as I presume we can—enter into some sort of stipulation with counsel for the other side that will obviate some of that testimony.

MR. DALY: Probably we can do that, but for the present we do not object, provided these men are to be called. We might want to question these men.

MR. WELCH: Surely. I would like to state in this connection that the Commission's record is full of such general statements by Mr. Mackinnon and Mr. Beck, without any investigation whatsoever by them, to the effect that there is only one wholesaler in a town, and that all of the wholesalers are handling Curtis publications; and certainly evidence of this sort I consider less objectionable than that, and if Mr. Daly wants any statement——

MR. DALY: Of course, the counsel on the other side understand me that I do not want to be technical about what somebody reports, but if we have an opportunity to examine these men——

MR. WELCH: We will produce as many as you want. We want to produce some anyway, and as many as you want to examine, but these figures that Mr. Douglas now gives are the result of the investigations by these men, or reported to him and compiled.

EXAMINER MOORE: I think the statement of counsel about the investigations of Mr. Mackinnon and Mr. Beck not being an investigation by them, might be a little bit far-fetched.

MR. WELCH: I mean by that, that their testi-

mony was not a personal investigation, any more than Mr. Douglas's was. They did state that the statements made by them were based upon correspondence and reports of traveling men, which is just what Mr. Douglas has stated.

MR. DALY: Further than that, these men, Mr. Welch, that have testified on that, have represented a number of magazines, according to my recollection; they were to a certain extent at least expert in this business. They knew the general conditions.

MR. WELCH: I think we can qualify Mr. Douglas as an expert.

MR. DALY: I think he is in some ways, except he has represented one magazine.

MR. WELCH: I am not asking him for any general statement, you understand. I want the precise figures in the record.

MR. DALY: Now, what was the first question?

By MR. WELCH:

Q. How many district agents were investigated by your road men, either personally or by correspondence, of which the result was reported to you?

A. Fourteen hundred and fifty-six.

Q. Now, of the 1456 Curtis district agents so investigated, how many were not dealing with other publishers as magazine wholesalers, when they joined the Curtis force?

A. Thirteen hundred and forty-five.

MR. SPIESS: Not handling other magazines; is that the question?

MR. WELCH: Yes. That is when they took on the wholesaling of Curtis publications.

By EXAMINER MOORE:

Q. How many is that?

A. Thirteen hundred and forty-five.

By MR. WELCH:

Q. How many were at the time they took on the wholesaling of Curtis publications, dealing with other publishers as magazine wholesalers?

A. One hundred and eleven.

Q. How many of the 1456 district agents investigated were not then dealing with other publishers as newspaper wholesalers when they took on the wholesaling of the Curtis publications?

A. Ten hundred and forty-two.

Q. How many of the 1456 district agents were at that time engaged in wholesaling newspapers?

A. Four hundred and fourteen.

MR. DALY: What time do you mean?

MR. WELCH: At the time they commenced the wholesaling of the Curtis publications.

By MR. WELCH:

Q. How many of the 1456 district agents investigated, are not at the present time dealing as magazine wholesalers?

A. Ten hundred and sixty-six.

Q. Of these 1066, how many are retail merchants?

A. Five hundred and eighty-three.

Q. Of the 1456 district agents investigated, how many are not at the present time dealing as newspaper wholesalers for other publishers?

A. Nine hundred and eighty-five.

MR. DALY: Dealing as what?

MR. WELCH: As newspaper wholesalers for other publishers.

By MR. WELCH:

Q. Of the 1456 district agents investigated, how many are now dealing as newspaper wholesalers for other publishers?

A. Four hundred and seventy-one.

Q. Of those 471 who are now dealing as newspaper

wholesalers, how many were put in the magazine wholesaling business by the Curtis Publishing Company?

A. Three hundred and eighty-one.

Q. Of those same 471, how many wholesaled the Curtis magazines before they wholesaled any newspapers?

A. Eighty-six.

Q. Now, with respect to this investigation that you have testified about, how many different towns did that investigation cover?

A. We were able to make a study of the wholesalers in 1253 district agency towns—1253 district agency towns.

Q. That is towns in which the Curtis Company has district agents?

A. Has district agents.

Q. Of the 1253 towns so investigated, how many have only one wholesaler?

A. Two hundred and eighty-one.

Q. Now, of these 281 wholesalers, how many wholesale only the Curtis publications?

A. One hundred and nine.

Q. Of these same 281 wholesalers, how many do not wholesale any other magazines?

A. One hundred and eighty-two.

Q. And of those 182 who do not wholesale any other magazines, how many sell newspapers wholesale?

A. Seventy-three.

Q. Of these same 281 wholesalers, how many handled the Curtis publications before they handled any other magazines wholesale?

A. Two hundred and fifty-three.

Q. Of these 1253 towns investigated, in how many instances was the Curtis district agent not the only newspaper wholesaler, or was not dealing as a newspaper wholesaler for any publisher, prior to his Curtis contract?

A. Eleven hundred and eighteen.

Q. Of these 1253 towns investigated, how many have only one magazine wholesaler?

A. Seven hundred and seventy-six.

Q. Of these 776 wholesalers, how many wholesale only the Curtis publications?

A. Five hundred and thirty-five.

Q. And that leaves a balance of how many?

A. Two hundred and forty-one.

Q. Who wholesale magazines other than the Curtis publications?

A. Yes.

Q. Of these 241 magazine wholesalers handling magazines other than the Curtis publications, how many were not dealing with other publishers as magazine wholesalers, when they joined the Curtis force?

A. One hundred and sixty-nine.

Q. Have we covered it all, Mr. Douglas?

A. I think so.

EXAMINER MOORE: Are these all of the figures that you have in reference to this matter?

MR. WELCH: Yes; those are all of the figures.

By MR. WELCH:

Q. Mr. Douglas, for various reasons is it necessary from time to time to make certain changes in the district agents?

A. It is necessary.

Q. And since November, 1917, and up to the present time, have you established new district agencies in various places?

A. Yes; we have.

Q. Has the expense of establishing those been small or large?

A. Not large.

Q. And how have the new men been located, in a general way?

A. In a general way, those have been chosen by new appointments by correspondence, but largely by road men, from lists of applications on file and from selections made by the road men.

Q. What characters of men—business employment of the men that you have designated as your district road men?

A. Chiefly retailers and boys.

Q. You have no difficulty in finding such men in every place that you wanted them, who are willing to wholesale your magazines?

A. Practically none.

Q. Now, based upon your experience and investigations and knowledge of the business and trade, are there not several men in the various cities and towns of this country, other than Curtis agents, who could readily be gotten by a magazine publisher to wholesale his magazines?

A. Yes, sir.

Mr. Daly: [illegible] think that question is too general.

Mr. Welch: [illegible] objection, Mr. Daly, and we will [illegible]

Mr. Daly: [illegible] question.

(The question [illegible] by the reporter as above recorded.)

Mr. Daly: [illegible] Mr. Examiner, that is a very general question, based upon general knowledge obtained, but it is not stated that he went out and made this investigation. It would be a mere guess, it seems to me, as to whether certain men could be had—whether they could do this work or not. If the counsel on the other side will show me some question like that I asked, why——

Mr. Welch: Mr. Daly, there are any number

of questions that will call for just as much guess on the part of the Commission's witnesses, if you call it a guess, as that.

THE WITNESS: Just off the record, may I say something?

MR. WELCH: No; just wait a minute.

MR. DALY: Well, we object to that question, on those grounds, that it is a matter of opinion.

MR. WELCH: Mr. Daly, there are statements all through your case to the effect, for example, that based upon the knowledge and experience of the witness it would not pay a man to handle more than one magazine. There are statements in the record as to whether or not, if the witness could get the services of the wholesalers, it would increase or decrease its circulation. The witness was asked, "I will ask you if you know from your knowledge of the industry, how many wholesale agencies there are generally in each city of the United States." Just such general questions as that. Mr. McKinnon and Mr. Beck both testified, if I recollect correctly, that it was impossible to get other agents than the Curtis district agents, or other wholesalers than the Curtis district agents in most of the cities. Now, I am asking him if in his experience it is not perfectly possible.

MR. DALY: Yes, but the point is this: This question was framed in such a general way that any magazine publisher could get a man to sell his magazine—it seems to me that is much more general than these other questions.

MR. WELCH: I am asking for his opinion as an expert.

MR. DALY: It calls for a conclusion as to what other magazine men may be able to do.

MR. WELCH: I will ask him this.

By MR. WELCH:

Q. Mr. Douglas, have you had personal experience in connection with the matter I asked you about?

A. I have, dating back to the time when the "Post" had less than 200,000 circulation, where we were appointing agents on the "Post," where it was not known.

Q. That experience has continued for some time after that, has it not?

A. Periodically since. Then I have been out over the country. I have been in practically all of the States. I have appointed lots of these agents myself and know how hard it is and how easy it is, under different circumstances.

By MR. DALY:

Q. That is, to get agents for the "Post"?

A. That is to get agents for a publication such as the "Post" was, prior to 1900.

MR. DALY: We do not object to that.

MR. WELCH: Well, I will ask the stenographer to repeat the question, and I ask it this time in the same form, based upon the statements that Mr. Douglas has just made, and his previous experience and knowledge of the business.

(The question was repeated by the reporter, as follows:)

"Q. Now, based upon your experience and investigations and knowledge of the business and trade, are there not several men in the various cities and towns of this country, other than Curtis agents, who could readily be gotten by a magazine publisher to wholesale his magazine."

MR. DALY: Now, then, you want that in connection with what you have already said, Mr. Welch?—in connection with what he said about his experience?

MR. WELCH: I ask him that question now.

MR. DALY: Again?

MR. WELCH: Yes; again.

MR. DALY: Well, I object to what any publisher can do. If he will confine his question to what—he was dealing all of the time for the "Post," as I understand. He was trying to put in agents for the "Post" and did put in large numbers of them, and he had no trouble in doing it, but what other publishers could do along the same lines I do not think is competent there. It is a conclusion that he draws.

MR. WELCH: It is the statement and opinion of an expert witness, Mr. Examiner, and I want to call attention in this connection to a question that was asked. Mr. Daly asked me if I could call attention to anything similar. A question was asked Mr. Smith, one of the Commission's witnesses, as to what would be the effect on wholesalers of Clause 13, in his opinion, based upon his knowledge of the trade and business, and he was allowed to answer that over my objection. What, in his opinion, was the effect of Clause 13 on the wholesalers. Now, I submit that Mr. Douglas has shown himself to be so thoroughly acquainted with this trade and business, and so well qualified to give his opinion in this matter and answer this question, that it should go in for what it is worth. If the Commission or the Court wish to disregard Mr. Douglas's opinion as not sufficiently supported by his experience, that is another matter.

MR. DALY: And further on that point, Mr. Examiner, here is a concern that has four magazines, and when Mr. Douglas goes out he is dealing on a four-magazine basis or a three-magazine basis. Some other publisher comes along with a single magazine. It is an entirely different propo-

sition, and what a man can do under one set of circumstances—circumstances like that—would be entirely different. The information he would get would be entirely different to what it would be if the man was handling a single magazine, and what other men could do by going out he cannot tell. There is no expert testimony that can go to a point of that character.

EXAMINER MOORE: I think that will be considered by the Examiner and by the Commission in the final summary of this matter, and with that in view the objection will be overruled. The evidence will be accepted for what it is worth.

MR. WELCH: Repeat the question.

(The question was repeated by the reporter, as follows:.

"Q. Now, based upon your experience and investigation and knowledge of the business and trade, are there not several men in the various cities and towns of this country, other than Curtis agents, who could readily be gotten by a magazine publisher to wholesale his magazine?"

THE WITNESS: There are.

By MR. WELCH:

Q. Now, it has been testified in this case that it would not pay a man to handle only one publication; there is not enough volume of business, etc. What has been your experience in starting agencies, and what do you say as to that proposition?

A. There are plenty of retailers in town that can be gotten to handle one publication. We did it on the "Post" when we only had one handled this way, and we did it for years, and it began on the ground floor when we had nothing to give these people—very little to give them.

Q. How many retail dealers are there in the United States?

A. Thirty-five to forty thousand.

Q. Is that figure confined to retail dealers in magazines?

A. Yes.

Q. You testified yesterday as a witness for the Commission, with respect to a new form of contract that has recently been put into effect by the Curtis Publishing Company with many of its district agents?

A. Yes.

Q. Paragraph 3 of the amended complaint contains a statement to the effect that the distributors referred to—that is, the Curtis district agents—are required to agree to handle and distribute the periodicals of the respondents, as agents of such respondents. In entering into this new form of contract with your various district agents, have they been absolutely free to do as they desired in entering into it?

A. Positively so. We would not appoint a man, unless he wanted to be our agent—not if we knew it.

Q. Was here any compulsion or pressure of any sort brought to bear upon these men?

A Positively none.

Q. The amended complaint, paragraph 2 of the second alleged cause of action, charges that the Curtis Publishing Company has sold and made contracts for sale, and has fixed and is now fixing the price charged therefor, under condition, agreement or understanding that the purchasers thereof shall not use or deal in the publications or periodicals of a competitor, etc. Is there anything with respect to the price of the Curtis publications that is fixed or in any way dependent upon the contract or the character of contract in this case?

A. No, sir.

MR. DALY: The contract speaks for itself there.

MR. WELCH: Yes; the contract speaks for itself.

By MR. WELCH:

Q. Now, are there other cities in which you have agents and through whom you circulate your magazines, who are operating under no contract at all?

A. Yes.

MR. DALY: What bearing could that have on this inquiry?

MR. WELCH: I am going to show that the same price is made to an agent, whether he is operating under this contract or not.

MR. DALY: As a matter of fact, it would be a contract, would it not, to sell him a magazine at a certain price—you mean a contract in writing?

MR. WELCH: I mean no contract that has anything similar to Clause 13 in it.

By MR. WELCH:

Q. Mr. Douglas, do you recall the question?

MR. SPIESS: The question was, "Are there any other persons selling Curtis magazines that are not under any contract containing a clause similar to Clause 13?"

THE WITNESS: Yes, sir.

By MR. WELCH:

Q. And to whom you distribute at the same price?

A. Yes, sir.

Q. You were asked, I think, yesterday as to certain increases that were made in the bonds at the time the new form of contract was put into effect Will you state, Mr. Douglas, what was the reason for incorporating the provision as to the bond in the contract in the first instance?

A. Several reasons. In the first place, the security requirement eliminates the undesirable applicants.

Q. Undesirable what?

A Undesirable applicants. It automatically minimizes the possibility of the appointment of an agent who is not qualified and who would not make a desirable agent.

Q. Somebody who would take it as a venture——

MR. DALY: Let him testify.

THE WITNESS: It eliminates the likelihood of having a man join the force without really understanding what his duties are and what we would expect of him. A man who has to put up a cash security before he obtains the agency is pretty apt to look into what we expect of him. That is one reason. Another reason is it assures the permanency of the arrangement and assures the fulfilment of the duties and obligations imposed by the agreement. It is a policy of insurance on the business represented in the agreement.

Q. Mr. Welker, at page 109 and page 115 of the record, testified that a paper called "The National Post" was unable to continue in business because of the fact that it could not circulate through the Curtis Publishing Company agents. What have you to say about that?

A. That is an inaccurate statement.

Q. What are the facts?

A. The company was unable to continue in business because of financial embarrassment.

Q. Financial embarrassment prior to or at the time or when, with respect to its effort to get district agents?

A. Prior to.

Q. One of the Commission's witnesses, Mr. Martin, at page 750 and 751 of the record, and Mr. Hunt, at page 875 of the record, testified as to a conversation

with you in which you gave verbal assurance that the Curtis Publishing Company would not insist upon the enforcement of Clause 13. What have you to say about that statement of Mr. Martin and Mr. Hunt?

A. They misunderstood what was said.

MR. DALY: Well, now——

THE WITNESS: It was not said that the clause would not be enforced against that association. What was said was that antecedent arrangements by any individual before he became a district agent for us, and which we countenanced at the time of his employment, would not be disturbed by us and that promise has been made and——

Q. Mr. Scholz, one of the Commission's witnesses, testified he wrote the Curtis Publishing Company and suggested that certain newspaper wholesalers that were in this 1906 alleged consolidation of Chicago newspapers—he suggested that the Curtis people place their contracts with these persons. Have you any knowledge of any such list or any such names being sent to the Curtis Publishing Company by Mr. Scholz?

A. I have no knowledge or recollection of any such list being sent to us or general request being made.

Q. With respect to respondent's exhibit No. 12, which is a letter dated March 10, 1917, from Mr. McKinnon to Dr. Delaye, in which he stated that the Curtis Publishing Company consented to the New England wholesalers handling the "Pictorial Review"—is that correct—did the Curtis Publishing Company ever give any such consent to the New England wholesalers?

A. No.

Q. He says that the same is true in several other sections of the country where the wholesalers have got together. What do you say as to that—the same thing?

A. The same thing, except for five or six cases where we did give sanction which was later withdrawn.

1413

Q. Those instances are all before March 10, 1917?

A. Yes, sir.

Q. Then that was not correct at the time the letter of March 10, 1917, was written?

A. No.

Q. State what the situation was, Mr. Douglas, as to that matter. Was it true that the Curtis Publishing Company had consented that the New England wholesalers could handle "Pictorial Review"?

A. It was not.

Q. Was it true that in other sections of the country, except in isolated towns here and there, that the wholesalers had gotten that consent from the Curtis Publishing Company?

A. No; it was not.

Q. There has been some testimony given by Mr. McKinnon to the effect that Joseph St. Marie, of Minneapolis, took the "Pictorial Review" first and then dropped it and then took the Curtis publications. Will you state whether or not Marie was handling the "Pictorial Review" at the time he was appointed Curtis district agent?

A. He was not.

Q. Had he before that time?

A. Yes, sir.

Q. And how long prior to that time had he ceased to act as agent for the "Pictorial Review"?

A. There was an interval of about forty days after he discontinued the "Pictorial" before he handled the "Ladies' Home Journal."

Q. Had Joseph St. Marie been an applicant for appointment as Curtis district agent?

A. His application had been on file in our office since 1910, and he had been promised the appointment by me in 1910, to his brother, Napoleon St. Marie, in the Bourse Restaurant, in 1910, and that promise was repeated three or four times by myself and other rep-

resentatives of the company. It was definitely understood by him that in case we had occasion to release Mr. Bloom that Joseph St. Marie had the refusal of our agency. That was definitely stated to Marie and was promised by me and Mr. Nelson and other men in our organization.

Q. With respect to District Agent Monroe, of Hillsdale, Michigan, there is some testimony that he had had the agency for the "Pictorial Review" and for the Crowell Publishing Company prior to the time that he became the district agent for the Curtis Publishing Company?

A. Yes.

Q. Have you made any objection or refused any permission, or raised any question about District Agent Monroe continuing the handling of those other publications?

A. We told him we wanted him to feel free to handle those publcations.

Q. What was the reason you took that position with him?

A. Because the arrangement was in effect—the arrangement with the "Pictorial Review" was in effect before he became our agent, but we did not know it at the time.

Q. Do you know of any instances where you have refused permission to a district agent to continue handling the "Pictorial Review" where he had been handling the "Pictorial Review" prior to the time that he took hold of the Curtis agency?

A. I know of no instances where objections have been made or refusal has been made by us to a man who has been previously dealing with the Pictorial Company.

Q. What do you mean by "previously dealing with the Pictorial Company"?

A. I mean that——

Q. What do you mean by that expression?

A. I mean that where a man had arrangements with the Pictorial Company in effect before he became our district agent——

Q. To handle the "Pictorial Review" at wholesale?

A. To handle the "Pictorial" at wholesale, yes, sir. We have not raised objections in those instances, to my knowledge, when that fact was within our knowledge.

Q. At page 278 of the record, there appears a letter written by the Curtis Publishing Company and signed by the manager of the sales division, dated February 5, 1917, being Commission's Exhibit No. 1, in which the statement is made:

"The plans of another publisher and his agent (news company) lead us to remind you of Clause 13 of your Curtis contract."

I ask you, Mr. Douglas, to look at that letter and state what other publisher that letter referred to.

A. I am familiar with it. It was the Crowell Publishing Company.

Q. Did that have any reference to the "Pictorial Review" Company?

A. No.

Q. Mr Douglas, is there anything in the expression used in that letter "plans of another publisher and his agents (news company)" that would indicate what publisher that referred to?

A. Yes.

Q. What is it—explain it.

A. The wholesalers appointed by the Crowell Company were to obtain their copies from the American News Company or some of its branches, and that was the significance of the expression bracketed there —"news company."

Q. Is that the only concern doing business that way, as far as you know?

A. Yes, sir.

MR. SPIESS: Then that "news company" refers to his agent?

MR. WELCH: Yes; to the American News Company. I think I am about through, Mr. Examiner. I may want to ask one or two more questions after lunch.

EXAMINER MOORE: Very well, we will take a recess until 2 o'clock.

(Whereupon, at 1 o'clock P. M., a recess was taken until 2 o'clock P. M. of the same day.)

---

## AFTER RECESS.

The hearing was resumed at 2.00 o'clock P. M., pursuant to the taking of the noon recess.

---

M. E. DOUGLAS, resumed the stand and testified as follows:

DIRECT EXAMINATION (continued).

By MR. WELCH:

Q. Mr. Douglas, when was the investigation of these district agency towns and the various district agents that you testified about, in which you based the figures you have given, completed?

A. This present month.

Q. And for how long prior to that was it carried on?

A. A few months—perhaps four or five months.

MR. WELCH: That is all I know of for the present, Mr. Daly.

CROSS-EXAMINATION.

By MR. DALY:

Q. You have testified that your company circulates and publishes "The Saturday Evening Post." Will you tell the Examiner the general character of that publication?

A. "The Saturday Evening Post" is a weekly of American life.

Q. Is what?

A. Is a weekly of American life.

Q. Will you describe the contents of it?

A. In the form of special articles, war, politics, business, editorials, serials.

Q. And advertisements; that is correct?

A. And advertisements.

Q. Now, will you tell or give the general character of "The Ladies Home Journal"?

A. "The Ladies' Home Journal" is a publication devoted to all the interests of the home and all of its members.

Q. Describe the contents generally like you did that of "The Evening Post."

A. Consisting of stories, editorials, of special departments related to the activities of the home; of fiction.

Q. And advertisements? Does it contain advertisements?

A. It contains advertisements.

Q. Now, that magazine—"The Ladies Home Journal" I am speaking about—appeals chiefly to women, does it not?

A. It appeals to women, and to men and to all members of the home.

Q. Now, in your "Evening Post" there are a large number of stories appearing from time to time, of fiction—a great deal of fiction, is there not?

A. Some fiction.

Q. And in "The Ladies Home Journal" there is fiction?

A. Some fiction.

Q. Are you familiar with the makeup of the "Pictorial Review"?

A. I have looked through a copy.

Q. It has fiction in it, has it not?

A. It has fiction.

Q. And advertisements?

A. And advertisements.

Q. Do you know whether or not the same writers of articles for each of these magazines—I mean to say for the "Post" and "The Ladies' Home Journal," and "Pictorial Review," on some occasions?

A. I presume there have been.

Q. Well, do you know?

A. I think there have been.

Q. Can you state what class of readers the "Pictorial Review" appeals to?

A. Chiefly to women.

Q. Now, it has been testified in this case that it is a competing magazine with "The Ladies' Home Journal," Would that be correct?

A. It is so stated.

Q. Well, that is correct, is it not? It is made up of the same appeals to women, the same kind of articles, to a certain extent?

A. With respect to reader appeal, the two publications are aimed at the same class of readers.

Q. Have you ever seen the publication of the Crowell Publishing Company, called the "Women's Home Companion"?

A. Yes.

Q. Will you describe the general make-up of that magazine?

A. It, too, is a magazine including stories and

fiction, and articles of interest in the home, and advertisements.

Q. And appeals to what class of people?

A. Chiefly to women.

Q. Then that would be a competitor with your paper "The Ladies' Home Journal," would it not?

A. It is so stated.

Q. Well, I do not know—it has been testified here, but I want to get your view about it.

A. With respect to reader appeal, the effort is to reach the same class of readers.

Q. Now, the "Every Week," that has been testified about in this case—can you describe its general make-up?

A. Short stories, some fiction; emphasis upon pictures; illustrated and advertising.

Q. Does that in any way compete with the "Saturday Evening Post"?

A. Well, that could hardly be said to be the case.

Q. To what class of people does it appeal?

A. From my observation, it does not appeal to the same class of people that buy the "Post."

Q. The same sort of stories are run in it, are they?

A. Hardly the same sort of stories.

Q. The same writers at times—do you know that?

A. Possibly. I don't recall one.

Q. When is it issued, Mr. Douglas? How often is it issued?

A. Weekly.

Q. The "Pictorial Review" is issued how often?

A. Monthly.

Q. And the "Ladies' Home Journal"?

A. Monthly.

Q. And the "Evening Post" is issued how often?

A. Weekly.

Q. "Every Week" and the "Ladies' Home Journal"?

A. Monthly.

Q. And "The Country Gentleman"?

A. Weekly.

Q. Now, for a certain period, as I understand your testimony, you got your magazines out to the people through the agency of the American News Company and through district agents; is that correct?

A. Yes; we still do.

Q. To some extent still?

A. Yes.

Q. But prior to the time of the execution of these contracts, or the putting of these contracts into force or adopting this plan of distribution, your methods of distributing were through the American News Company and through district agents; is that correct?

A. Before we had contracts with the district agents the method was through the American News Company and through boys and by subscriptions.

Q. Now, when did you begin with the American News Company, if you know?

A. When we began to publish the "Ladies' Home Journal," in 1883.

Q. And you followed that method of distribution up until when?

A. We followed that method of distribution—that is through the News Company and through subscriptions—up until December 30, 1899.

Q. And then you adopted different methods, did you?

A. Yes.

Q. Still using the American News Company for a part of your distribution; is that correct?

A. Yes.

Q. Now, to what extent did you distribute those papers through the American News Company? I mean after you adopted the new plan, as you call it?

A. To the extent of the demand by the retail news dealers of the country.

Q. They went entirely to the retail dealers; is that correct?

A. Yes.

Q. And the rest of them went to what you term district agents?

A. In the beginning.

Q. And part of them were boys?

A. In the beginning we supplied them all direct from Philadelphia by mail—the boys.

Q. Now, then, after you put this contract into force, under which there were a large number of agents, as you call them, then you did not distribute so heavily through the American News Company, did you?

A. We continued distributing through the American News Company, to the retail news dealers of the country.

Q. You continued?

A. Yes.

Q. To whom?

A. We continued to distribute for a good many years, through the American News Company, to the retail news dealers of the country.

Q. Now, to what extent did you go through the American News Company? Give some approximate estimate during that period?

A. About the same as now.

Q. Well, how much was that? I don't know.

A. Ranging from seventy-five thousand to one hundred thousand a week.

Q. Now, how many would you be sending out through the other method in comparison to that?

A. Beginning in 1900, December 30—and for twenty-seven weeks, beginning December 30, 1899, the average weekly distribution through boys direct from Philadelphia, was eight thousand odd copies a week,

and from that time the circulation through boys gradually, at first, more rapidly afterwards, increased.

MR. WELCH: You are speaking of the boys now.

THE WITNESS: The boys only I am speaking of.

By MR. DALY:

Q. About the "Ladies' Home Journal"?

A. The "Ladies' Home Journal" was distributed exclusively through the American News Company, to the retail news dealers of the country, up until August, 1908, at which time we made arrangements with a few district agents, and up until 1910, at which time we threw it open to all district agents.

Q. Did the American News Company handle that at all?

A. Yes.

Q. When did the News Company begin to handle the "Ladies' Home Journal"?

A. 1883.

Q. Now, to what extent do they still handle the "Ladies' Home Journal"—I mean the News Company, of course.

MR. WELCH: You mean approximate percentage?

MR. DALY: Yes, sir; approximately.

By MR. DALY:

Q. If you know the number, give them; if you do not, give the approximation.

A. Under a hundred thousand monthly, I think.

Q. Now?

A. Now.

Q. And the remainder go out through the district agency plan, is that correct?

A. Yes; district agents and sales agents.

Q. You do business through that company on a non-returnable basis, do you or not?

A. Yes.

Q. Now, you have testified that in putting in these various plans, that you made large expenditures of money. That is correct, is it not?

A. Yes.

Q. Now, is it correct that the district agents—these new agents that were instituted, were highly pleased and delighted with the arrangement under this contract that I am speaking of now?

A. I think that is a fair statement, generally speaking, yes.

Q. Fairly speaking, they were much pleased. Do you know why they were so pleased about it?

A. Well, the boy district agents were pleased, because it represented a promotion for them. Previously they had been merely retailers, and now they had come to have an opportunity to supervise and engage other boys to sell for them, and it was looked upon by the parents as a much more desirable work for the boy district agent to do. Of course, this also meant opportunity for larger commissions.

Q. Now, you have testified, according to my recollection, that you gradually worked up to the plan of putting in district wholesalers or dealers, and that in effect that you were the pioneer in that direction. Is that correct?

A. Pioneers with respect to the utilization of boys and district agents together.

Q. Now, that is correct, that you were pioneers in that direction?

A. With respect to the utilization of district agents and boys together, to supply the readers in relation to magazines.

Q. In establishing these agencies you have testified—you made this statement here this morning, in substance, which meant it was a simple matter to go out and pick up agents anywhere. That is correct? That was your testimony?

A. Broadly, generally speaking, yes.

Q. But as a matter of fact, in all your building up of this organization that you have and testified about, it cost you tremendous sums of money, did it not?

A. Yes.

Q. You have already testified to that?

A. Yes.

Q. Now, during these early years what difficulties did you have, if any, with other publishers getting hold of your agents?

A. During those very early years, none.

Q. When did these troubles begin to arise that have been testified about in this case—just about when?

A. Oh, it was about 1910 or thereabouts that we began to consider this problem that seemed to be ahead of us.

Q. What problem do you mean?

A. The problem of conserving for our company a fair amount of time of the district agent in accordance with his duties and obligations to us.

Q. That was about the time that competing magazines came into the field, wanting these agents, was it not? Then you took up this problem that you speak about? Is not that about correct?

A. Well the original efforts that set us to thinking on this subject were hardly by magazines that could be called competing magazines.

Q. Then we will say other magazines; is that correct?

A. Yes, sir; other magazines and other firms.

Q. What were the first magazines that caused you to consider this problem?

A. I think it was in connection with efforts made by "Success" and the "National Post." That was the first overt effort.

Q. Who published "Success"?

A. The Success Company, I think.

Q. Who published the "National Post"?

A. The same company, I think.

Q. Were they the same magazine or different magazines?

A. Different magazines.

Q. Now, at that time, however, you did not have these contracts, did you, with these prohibitive clauses in them?

A. No.

Q. It has been testified in this case, and you touched on it this morning, that those magazines went out of business, or that concern that published them, the "Success" and the "Post" went out of business. That is correct, is it not?

A. They failed financially.

Q. You stated that that was through financial difficulties?

A. Yes, sir.

Q. Do you know how they distributed their magazines?

A. Through the American News Company, "Success" was distributed through the American News Company.

Q. To retailers.

A. To retailers. And an effort was made to sell direct, through boys and local people whom they sought to engage to supply boys—whom they did engage to supply boys.

Q. And you had boys at that time, did you not?

A. Yes.

Q. Now, did you object to their handling their magazines through those agencies or not?

A. Not as in this recent controversy.

Q. No; but answer the question. Did you object?

A. We sent out one letter that is in the record to our then district agents.

Q. And that letter is to the effect that you did not

want these agents to handle these other magazines, is it not?

A. Not quite to that extent.

Q. What is the letter, without referring to it and looking in the record? Can you tell me what it is?

A. We called the attention of the district agents to the effort that was being made, and reminded them of their duties and obligations to us. We suggested that perhaps a time might come when it would be necessary for us to adopt a definite policy on this subject, which up to that time we had not adopted.

Q. And that went to all of your agents at that time, that letter, did it not?

A. Practically all of the then district agents.

Q. Did the agents obey the mandates of that letter, or the suggestions contained in the letter, do you know?

A. Oh, I think the letter—now, I think you could hardly find any mandate in it.

Q. Well, as the suggestion was, or whatever the letter was?

A. There was no particular controversy about it with anybody, as far as I can recall. I know a number of our district agents tok on that proposition without objections by us.

Q. But at that time you had no contracts with your agents, similar to the contract that is in this case?

A. We had no contract containing a clause requiring that they get our permission.

Q. Now, you know Mr. Welker, of course, who testified in this case?

A. Yes, sir.

Q. Do you recall his testimony with reference to his method of doing business, through boys?

A. Yes.

Q. And that he handled the paper called "Grit," and "The Blade," I think, and some other paper or two of that description?

A. Yes; I think he said he was selling those newspapers.

Q. And the "Ledger." You have no doubt that that is correct, have you?

A. I don't question it.

Q. As a matter of fact, that was a plan that had been used by a large number of papers, like the ones that I have described to you?

A. Newsboys sold newspapers, yes.

Q. And these boys would remit to the home office, would they not?

A. I suppose so.

Q. These were weekly papers?

A. These were weekly papers, yes.

Q. I think Mr. Welker has testified that—if he did not, you can correct me about this—that they remitted to the home office. They were weekly papers that the boys sold, and they remitted to the home office. Do you know whether that is correct or not?

A. I don't know anything to the contrary.

MR. WELCH: I don't think Mr. Welker testified on that. I am not sure, Mr. Daly, but I don't believe he testified about that. I would like to see.

MR. DALY: Well, I asked him if he knows.

MR. WELCH: I know, but I don't want to have the statement in here that he testified.

MR. DALY: He testified that the plan was the same, or a similar plan to the "Post's." Is not that correct?

MR. SPIESS: 112 is the page.

MR. WELCH: Well, he does not make the detailed statement that you made.

MR. DALY: In substance, he said.

By MR. DALY:

Q. Now, he also testified that before this new plan of contract was devised—now, I am speaking of the first contract in this case and not the last one that you

put in—that he had a conversation with you relating to it, I think.

A. I remember the testimony.

Q. Where was that conversation? Do you remember where he said it was?

A. I remember where he said it was.

Q. In Chicago, wasn't it?

A. He said it was in our old building, on Arch Street.

Q. On Arch Street, Philadelphia?

A. He said it was there.

Q. Well, that is what I am asking. Now, do you deny that you ever had any conversation with him about that contract?

A. No.

Q. As related by him?

A. No.

Q. Well, then, what is your testimony about that?

A. I said that I did not say to him that I thought the contract, with reference, especially, to this particular clause was not legal.

Q. Then you do admit that he suggested to you the idea of putting this prohibitive clause in the contract?

A. I don't believe I need to admit it.

Q. No.

A. I don't know. The idea of it was developed in our organization. Who suggested it, I don't know. I am willing to give Mr. Welker the benefit of the doubt.

By Mr. Welch:

Q. You don't know whether he suggested it?

A. I don't know.

By Mr. Daly:

Q. Now, have you ever said to anyone that you did not intend to enforce that contract, or it could not be enforced, or words to that effect, do you think?

A. There was some discussion in our organization, I know.

Q. As a matter of fact, did you not state on at least one occasion and possibly more, that the idea of the contract was a moral one, rather than an actual legal one?

MR. WELCH: State to whom and where?

MR. DALY: I asked him first if he stated it. Then I will follow it up.

A. I could not answer it; I don't know.

Q. Do you know Mr. A. E. Moore?

A. Yes, sir.

Q. Where was he at that time?—one of your employes?

A. Yes, sir.

Q. Was he one of your agents?

A. He was an employe in our office at about that time and after that time.

Q. You had correspondence with him with reference to Mr. Welker and Bresnahan, and these men representing other publications, did you not—at some time?

A. I recall some correspondence with Mr. Moore since he left us.

Q. Now, I show you a letter dated December 21, 1917, written to Mr. A. E. Moore, whom you say was in your employ. Will you look at that letter?

A. Yes; I wrote that letter.

Q. And I hand you a reply dated December 22, 1917, by Mr. Moore, addressed to you, and I also hand you a further letter to Mr. Moore, addressed by you, which shows the whole transaction, dated January 9, 1918—copies of letters. You received and sent these letters?

A. I think Mr. Moore wrote us in reply to that two letters like these. They both ought to go in.

Q. I am going to offe rboth of them.

MR. WELCH: I have no objection to them.

THE WITNESS: Mr. Moore, you see, came to us after the beginning of this thing to which you refer. He was giving his impression and not stating facts.

MR. DALY: He was stating what he understood from your conversation.

THE WITNESS: That was his impression.

MR. DALY: He does not say it was an impression. He reminded you of this conversation.

THE WITNESS: Yes.

By MR. DALY:

Q. When did Moore come with you?

A. I have not the exact date with me. I could not tell you.

Q. Well, will you get those dates, Mr. Douglas?

A. Very well.

MR. WELCH: What is the materiality of these letters?

MR. DALY: The materiality is this. He testified this morinng, and he denied Mr. Welker's statement, and we offer these to corroborate Welker and to show he did have this state of mind at that time.

MR. WELCH: There is nothing in here to show Mr. Douglas had that impression.

THE WITNESS: I do not deny that.

MR. DALY: It also goes to the point that it was also testified by Mr. Martin at Boston that Mr. Douglas had made similar statements.

MR. WELCH: I object to this entire correspondence as incompetent, irrelevant, and immaterial, and as having no bearing on the issues in this case.

MR. DALY: We offer these.

EXAMINER MOORE: The objection is overruled.

MR. WELCH: We desire to note an exception.

(The letters referred to were thereupon received in evidence and marked by the stenographer,

"Commission's Exhibits Nos. 190 to 192," inclusive, and the same are as follows):

COMMISSION'S EXHIBIT No. 190.

(Letterhead of Curtis Publishing Company.)

"December 21, 1917.

Mr. A. E. Moore,
105 Colonial Trust Building,
Philadelphia, Pennsylvania.

Dear Mr. Moore:—

Between members and former members of our Staff there seems to be disagreement of opinion with respect to the origin or source of the restrictive clause in our District Agency Contract. The matter is of no moment other than for such "historical" interest as may attach to it.

For the reason that you were with us at about the time in question, it has occurred to me that perhaps you may have some more or less definite first-hand information or recollection as to the source or origin of the particular clause by which our District Agents agree not to wholesale other magazines without first getting our sanction.

To the best of your knowledge or recollection what was the source or origin of the clause? Do you recall hearing while you were with us any authoritative statement identifying any one member of the Staff as entitled to credit for suggesting that we adopt the clause in our contracts?

If you have knowledge or recollection of the matter I shall appreciate it if you will write me, stating your best recollection upon the point, giving any particulars in such detail as you may think may be helpful to me.

I sincerely trust you find your present em-

ployment thoroughly congenial and wish you a happy Christmas and a bright New Year.

With all good wishes,

Very truly yours,

(Signed) M. E. Douglas.

MED DED

P.S. Do you recall what, if anything, in connection with the National Post Magazine transpired in connection with the source or origin of the clause in question? Have you any certain knowledge or positive recollection as to whether or not the clause's source or origin had anything to do with the "National Post"?

---

Commission's Exhibit No 192.

"December 22nd, 1917.

Mr. M. E. Douglas, Manager,
Sales Division,
Circulation Department,
The Curtis Publishing Company,
Philadelphia.

Dear Mr. Douglas,

You yourself may justly claim credit for the introduction of the restrictive clause in the district agency agreement, if my memory is correct.

I well recall the discussion there was at the time we all got together to talk over the rough draft of the agreement form. It was at the time that Harry Welker was active in the Middle West, signing up many agencies for The National Post with Curtis agents. Before the meeting, there was incidental discussion among 'us men' as to whether or not the report that some girl employe had transcribed the list of Curtis agents for Welker or not.

Realizing the importance of keeping closely in

touch with the Bresnahan-Welker activities, you inserted the clause in the rough draft of the agreement that we were discussing. You laughingly assured us that it was not then your purpose to withhold agency privileges from any such dual representative. You told us that you sought by the clause merely to get a line on the activities of the new magazine organization. You emphasized the fact that you aimed at 'moral effect' rather than restraint. I heard nothing of any countermove by the other publishers at the time, but heard indirectly later that some of the Curtis agents had discredited the clause in the Curtis contract and had stated that it could never be enforced. I have been given to understand that Curtis traveling representatives felt the same way.

I suggested to several of the men 'on the floor,' that in our correspondence we might answer objections to this clause by referring to it as an advantage, in this way: 'The Curtis Publishing Company wants you to make all the money you can selling magazines, Mr. Candidate for the District Agency. If you get an offer from any other publisher about handling other publications, write to the Home Office. The endorsement of your work given the other publisher by letter from this company will work to your decided advantage in securing another valuable agency.'

This whole matter has recently been clearly brought to mind by my reading about a case of alleged violation of the Sherman Act. I never knew of but one case where an agent reported the offer of another publisher's agency, in accordance with the agreement provision. I referred that case to you, and you said: 'Sure, let him have it.'

If I can be of further cooperative assistance, please advise me. My telephone is Walnut 4241.

Heartily yours,"

COMMISSION'S EXHIBIT No. 191.

"January ninth,
Nineteen eighteen.

Mr. M. E. Dougas,
Curtis Publishing Co.,
Independence Square,
Philadelphia, Pennsylvania.
Dear Mr. Douglas,

Today I have had a visit from Harry Welker, and we have been talking over that 'restrictive clause' in the Curtis sales agency contract.

In my letter to you dated December twenty-second, I confused the Publishers' News Company with The National Post. We did have conference about that clause under the conditions that I stated, but I believe now that the discussion was about the retention of the clause in a revision of the contract—not about its introduction into the contract.

I have been reminded of a meeting about that clause, held in the mechanical building lunch-room of the old Arch Street building. I believe that the clause was introduced into the contract as a result of that conference, as a preventative of activities of other publishers along the lines employed by The National Post.

The conference referred to in my letter was about the activities of The Publishers' News Company—not the National Post, which has 'died' long since.

Very truly yours,"

By MR. DALY:

Q. As a matter of fact, Mr. Moore was with you for some time, was he not Mr. Douglas?

A. Several years I think.

Q. And Welker was with you——

A. For several years; yes, sir.

Q. Can you recall whether or not Welker worked under Moore and got his instructions from Moore at the beginning?

A. I could not say.

Q. You do not remember that?

A. I do not know.

Q. You have testified quite at length relative to this boy organization. Will you state again where you draw the line between boys in this organization—what type of boy you take on? I think you have already described them once or twice, but I want to lead up to something.

A. It is not quite clear to me what you mean.

Q. I mean what class of boys do you use in making these agents?

A. You mean the district agents?

Q. Yes; your boys, as you call them. What kind of boys are your boys?

A. In the beginning, in the selection of district agents, we gave preference to boys who had been selling our magazines, if we could find one qualified to act as district agent and assume leadership for us.

Q. In other words, you picked out the most capable boy that it was possible for you to get in the organization that has been your testimony?

A. For district agent we gave preference that way.

Q. Now, then, the boys that sold your papers, who are not district agents—are they the same type of boys—home boys, or whatever you call them?

A. Chiefly home boys and school boys.

Q. Now, then, you have also testified that when you named district agents not boys—I am not speaking of boys now, but other agents—that you selected the best man that you could get. That is the substance of your testimony, is it not?

A. I do not recall saying just that.

Q. What did you say?

A. We sought to get as district agents persons qualified for leadership of boys.

Q. You tried to pick out a leader in the community?

MR. WELCH: A leader of boys?

The WITNESS: A leader of boys, I said.

By MR. DALY:

Q. Well, a leader of boys. That was the standard—that is your method, is it, of picking out the one that you now say is the best leader of boys?

A. Somebody qualified to act as leader of boys.

Q. And further, these agents are responsible men, as a rule, are they not—I am not speaking of boys now; I am speaking of the other type of so-called district agents?

A. Most of these men make their settlements.

Q. And you have a bond in the contract which makes it necessary for a cash deposit every time that you establish an agency—is not that correct—except in a few instances you take some other type of bond?

A. Usually a cash security with each contract.

Q. And through that plan—the plan of this contract—you, in most instances, we will say, have been able to establish not only a capable leader of boys, but a substantial man as well—is that correct?

A. In some cases.

Q. Well, in most cases, is not that true now?

A. I have not investigated the financial rating and standing——

Q. I do not want to argue that with you, but you stated this morning that, I think, very clearly.

A. We have not, as a practice, investigated the financial rating and standing of our district agents.

Q. But you require them to put up cash, which protects you, in every respect, does it not?

A. Yes; but with respect to boys, for instance——

Q. And you testified this morning that through that method—and if this testimony I am quoting is wrong, you can correct me; the testimony is quite long and I might be in error—but through that method you at least minimized the probability of getting an irresponsible character?

A. Yes, sir.

Q. You knew a large number of these agents that you have appointed all over the country?

A. Yes, sir.

Q. Now, in the main, are they not capable and responsible men?

A. Including the fathers of the boys; yes, sir.

Q. I am speaking of the other agents. I am confining my talk to you now to that class, leaving out your district boy agents?

A. They are responsible to the extent of making their settlements.

Q. And they are leaders of boys—is that correct?

A. Most of them are leaders of boys.

Q. As a matter of fact, most of them are very capable magazine men as well, are they not?

A. Comparatively so.

Q. You entrust them to sell your magazines in the various communities?

A. Comparatively so. We have taught them how to do that. That is part of the expense we have had to go to.

Q. They are, as a rule, very capable men?

A. Through our efforts; yes.

Q. And they can promote the sale of magazines——

A. Through learning how from us.

Q. I do not care how they get it, but they are, are they not? You consider them very efficient?

A. We consider them efficient.

Q. In many cases they have equipment for the distribution of magazines as well, do they not?

A. Some of them have.

Q. That is one of the things you look into, is it not, when you are about to establish an agency—the better equipped, the more desirable agent he will be?

A. Other things being equal.

Q. Other things being equal—what other things?

A. His willingness and ability to work with the boys as we require.

MR. DALY: Mr. Stenographer, please read the last three or four questions and answers.

(The stenographer repeated the last four questions and answers.)

By MR. DALY:

Q. Now, you changed your method of distribution to some extent, at least, by not doing as much business through the American News Company—that is correct, is it not?

A. After strenuous efforts to continue to supply all the trade through the News Company.

Q. Now, was the reason of your taking up the district agents—why did you take up the district agents plan over the American News Company?

A. I do not understand you—over the American News Company?

Q. Why did you take up the district agency plan in preference to the American News Company plan?

A. We tried to operate both on the basis that would have the News Company continue to supply the trade, but we could not do it.

Q. Why?

A. Because the district agents who had our sanction to supply the boys sold to the dealers who previously were supplied by the News Company, and this

occurred in spite of our forbidding it. We tried to stop it, but we could not do it. It would have been much more to our advantage to keep that separate, because we got more from the News Company than from the sales. We would have preferred to continue that original arrangement, but it was not practicable.

Q. It was not workable?

A. No, sir; it was not workable, because of the volume of complaints and friction that developed over it.

Q. I show you a letter dated June 14, 1912, addressed to Kennell Brothers, Elgin, Ill., in reference to this subject I am questioning you about—the American News Company. I want to show you that letter.

A. We sent that letter out.

MR. WELCH: We make the same objection that we made previously on the record with respect to this transaction, that it was a transaction back of 1912 and not material to the issues here, as it was prior to the passage of the Federal Trade Act and the Clayton Act.

EXAMINER MOORE: The objection will be overruled.

MR. WELCH: We note an exception.

MR. DALY: We offer the letter.

(The letter referred to was thereupon received in evidence and marked by the stenographer "Commission's Exhibit No. 193," and the same is as follows:)

COMMISSION'S EXHIBIT No. 193.

"THE CURTIS PUBLISHING COMPANY.

June 14, 1912.

Kennell Brothers,
Elgin, Illinois.

Gentlemen:

As one of our agents with whom we have had nothing but the friendliest relations, and in whose

work we are interested beyond merely selfish considerations, we want to present frankly a matter which is of interest to you and to us.

Suppose you had devoted your life to establishing retail agents in the magazine or newspaper business in your territory—assisting newsdealers to corner stand privileges, encouraging boys without experience, teaching them to sell, and for months spending money far in advance of any possible immediate advantage or profit to you from the development of that sale.

Suppose you had striven in behalf of those boys and dealers for years, finally attaining success and an established business paying you and them a fair profit.

If then some outsider undertook to disturb your friendly relations with your agents, you would expect every last one of them to be loyal to you, wouldn't you? You would certainly deserve their gratitude and support.

Here are some facts:

For many years we have devoted our energy to establishing district agents to wholesale THE SATURDAY EVENING POST throughout the United States and Canada. We were pioneers in the plan of establishing everywhere, local wholesalers independent of the American News Company—something for which dealers all over the country had long pleaded. A service costing hundreds of thousands of dollars annually we maintained for years at a loss. During the lean years our district agents took their profits when we had none, but we persisted and carried out to the last degree every promise made.

Thus we worked for years in behalf of our district agents, our P-J boys, our newsdealers, and fiinally by square dealing, established a successful

sales organization on a permanent basis, profitable to you and to us. Nothing in our business experience has been a source of greater gratification than the pleasant and confidential relations thus established with the trade in every section of the country.

Now, on the claim of building up another independent service, but really by trying to use the organization built by us at the expense of hundreds of thousands of dollars and years of hard and often discouraging effort, The Publishers News Company has undertaken to persuade our district agents into disloyalty, to induce them to dishonestly break their agreements with us by signing that company's contracts without getting our approval as our contracts with district agents require. Former employes of ours, familiar with our business, have by The Publishers News Company, been engaged to induce our agents to dishonestly break contracts which those former employes helped to place when they were in our employ.

Your loyalty, your self-respect, your honesty, we believe, will prevent your carrying out any such arrangements.

We will not permit this thing to be done to you; we will not permit it to be done to us.

A very few district agents, unmindful of our advice on pages 249-251 of "The District Agent as a Sales Promoter," forgetful of our recent letters and of the restrictive clause in their contracts, did sign agreements offered them by the Publishers News Company—only to be embarrassed later on finding that by so doing they had made their Curtis cash bonds liable to forfeiture. Those agents then had to ask The Publishers News Company for release from the hasty undertaking—in order to avoid losing their Curtis bonds.

No District Agent will be permitted to obtain magazines directly from The Publishers News Company to wholesale to agents in his territory, and at the same time continue to represent us. No district agent can do both. Each must choose whether he will go with that company or continue with us.

Have you been approached? If you have, through oversight, made any agreement with The Publishers News Company, write us fully, stating just what you have done. Do this now without waiting for the information to come to us from another source. When we know all the facts of any such undertaking by you, we will tell you how to avoid forfeiting your Curtis agency and your Curtis bond. We don't want to take arbitrary action with any district agent—we will not do so to those acting toward us in the same fair spirit in which we have always dealt with them.

If no such offer has been made to you by The Publishers News Company, or if you have made no arrangement to represent it, with or without a contract, please write stating that fact, and also assuring us that you will not, under any circumstances, enter into any similar arrangement with that company. Very few of our district agents have entered into any arrangement with that company, but we are sending this letter to all, for all are mutually interested.

For your convenience a blank is enclosed for your reply. Fill out the blank and send to us by return mail.

In the future we will earnestly co-operate with you in every plan offering reasonable hope of more profits for you and for us. You know our agency is not an experimental one. You know your direct supply of Curtis publications will not be cut off

through pressure from other agents, so as to leave you without any supply. You know you will, in the not distant future, be selling more Curtis periodicals than at present.

This letter involves no discrimination against you. We are deeply appreciative of the representataion you have given us in the past. We know that if you were to arrange to represent The Publishers News Company in any way it would result adversely to your interest as well as to ours.

Our statement that no district agent can continue with us and also represent The Publishers News Company applies only to that one company. We have assisted many of our efficient district agents to obtain agencies for one or more other publications. The restrictive clause in our contracts is there not for offense but to protect our district agents and ourselves against a repetition of past efforts by some magazines to exploit our agents to increase the circulation of other publications at the expense of ours, by methods open to the strongest criticisms. If you have occasion to present for our approval any other opportunities for additional money earning for yourself, you will have no cause to complain of the use of that clause as against other publications whose methods are not adverse to our mutual interests.

Please answer by return mail.

Very truly yours,

THE CURTIS PUBLISHING COMPANY,

M. E. Douglas,

*Manager Sales Division.*"

INFORMATION BLANK.

ABOUT THE PUBLISHERS NEWS COMPANY.

1. Have you been approached by The Publishers News Company?

2. Was it by letter, telegram or traveling representative?

3. If by a traveling representative, give his name.

4. Have you arranged to act for that company without a contract?

5. Have you signed a contract to act for The Publishers News Company as their wholesale agent to distribute magazines in your territory?

6. Did you furnish a surety bond to The Publishers News Company?

7. What is the amount of your bond to that company?

8. If so, give both the name and the address of your surety or bondsman on that contract.

9. If any agreement has been made, with the issues of what month did you undertake to distribute for that company?

10. Will you refuse to represent The Publishers News Company if they approach you later on?

11. What other magazines, if any, are you representing in a similar way?

WRITE YOUR NAME AND ADDRESS BELOW.

District Agent.
Street Address.
City. State. Date.

By MR. DALY:

Q. Now, in developing your plan, you have done certain work with boys, and part of this work is to give prizes under certain circumstances. That is correct, is it not?

A. Yes, sir.

Q. Now, these prizes are always given for services rendered, are they not, as a matter of fact?

A. You are speaking——

Q. For extra services rendered?

A. (Continuing) —of the prizes to the boys?

Q. Yes.

A. In connection with services mentioned in the announcement of offers.

Q. You announced that prizes will be given under certain circumstances?

A. Yes, sir.

Q. And those circumstances are always in reference to increasing your circulation?

A. That was always, I think, one of the conditions——

Q. What were the other conditions?

A. For instance, in connection with the League, a boy cannot earn promotion to expert salesman without passing the examination in the textbook and the teacher gives the examination, which is not a part of——

Q. Is that part of the prize system?

A. It is part of the League system which includes awards.

Q. You have testified about prizes.

A. Competitive prizes.

Q. And some other prizes, and you said they were given under two circumstances?

A. Yes, sir.

Q. What were those circumstances?

A. In relation to the boys themselves, we have had competitive offers and non-competitive offers. The competitive offers include prizes and awards for sales achievements, in competition with other boys. The rebate voucher plan includes prize awards other than cash—articles of merchandise on a non-competitive basis for sales achievements.

Q. This whole prize——

MR. WELCH: Let him finish.

THE WITNESS: That was all I wished to state.

By Mr. Daly:

Q. Under both of these plans, the object you have in view is to increase your circulation, is not that correct?

A. Make better agents of the boys—make them more efficient.

Q. And that, of course, increases your circulation—is not that correct?

A. We have found that intelligent self-concern is founded in services to others, including the boys.

Examiner Moore: Will you please read that answer?

(The stenographer repeated the answer.)

By Mr. Daly:

Q. And through that system of prizes and awards, you have increased the circulation of your magazines to quite an extent, have you not?

A. Yes, sir.

Q. Now, you have a system of giving prizes or awards or bonuses to district agents other than boys, have you not?

A. Yes, sir.

Q. Will you state the circumstances under which those are given?

A. We have had competitive offers and non-competitive offers, and we have had offers of awards, which were conditioned on sales achievements, and we have had offers and awards, which were conditioned on achievements other than sales. In the beginning, for instance, when we first began to appoint these district agents in large numbers, we supplied them all with what we call a salary check book. It was, in effect, an order upon us, so that if the agent, upon a non-competitive basis, attained a certan sales figure in his community, he would simply sign that order and send it to us, and we would credit his account or send the cash as he preferred.

Q. Will you explain what other plans you had—will you explain that to the Examiner—with the district agents, other than the boys?

A. We have offered special payments to these agents for getting boys and coaching them. We have had competitive cash prizes for agents and non-competitive prizes and share offers and every conceivable offer that would stimulate the agents to activity and effort with our publications.

Q. Now, that whole plan is based on achievement, is it not—if a man does not achieve, he does not get any of these awards or prizes or bonuses—is not that correct?

A. Some of those were prizes for which they did not have to achieve very much, and they got their commissions, of course, on their sales, irrespective of these special inducements.

Q. I am speaking about special inducements now. As a matter of fact, getting right down to that, the idea for all these special inducements is to increase the circulation of your magazines, or you would not be doing it?

A. That is involved in it.

Q. Is not that the primary motive of the whole thing?

A. Linked with the district agents' duty in connection with coaching and training the boys. They are inseparable.

Q. I understand that.

A. We make the offer to the boys dovetail with the proposition to the agents—

Q. I am speaking about paying the agents for getting the boys—agents getting boys and under any other plan—the whole basis of it is the increase in the circulation—that is what you expect, is it not?

A. Obviously, or we would not be doing it.

Q. Or you would not be doing this, would you?

A. Absolutely not.

Q. Now, then, through this plan you have held contests with these district agents, and you have largely increased your circulation; is not that correct?

A. That is correct.

Q. And it has been a very efficient way of building up your circulation, has it not?

A We have considered it so.

Q. And you still follow out that plan, or did until recently?

A. We have not had competitive prize offers recently. We may have to come back to them again.

Q. Now, then, just how do you pay these agents for getting boys? What do they do about getting boys?

A. That has depended upon the nature of the particular offer.

Q. Well, take some of the offers and describe them, and tell the Examiner just how you work that plan?

A. For instance, on all our publications—all three of them—we have at various times made combination offers, supplementing each other like this: To the boys an offer of a payment—a fixed payment for getting new, steady customers, and at the same time an offer to the district agent whereby——

Q. I do not particularly object to that, Mr. Douglas, but if you will confine yourself to some offer which was just on the particular point that I am talking about?

A. This is on the point, and at the same time an offer to the district agent, whereby his remuneration would be a fixed amount on each order the boy got.

Q. I know, but I am asking you exactly how you worked that plan for paying agents for getting boys.

A. That is what I am discussing now, the matter of coaching these boys.

Q. No; not coaching or anything of the kind. Just getting boys. That is what I am first asking you.

A. I am getting boys. We have made offers to the district agents, for instance, that we would pay them a dollar apiece for each boy secured by the agent and started at work. The time of settlement was conditioned upon the boys achieving enough to show the district agent had really done something. Another time we had an offer of $2 per boy on a similar basis.

Q. Now, then, as a matter of fact, that plan is nothing but this, Mr. Douglas, bringing it right down, that when a district agent gets a boy or boys under those circumstances, this boy sells a certain number of magazines, then the agent is credited with so much?

A. We did it because of the sales requirements to determine the time of payment.

Q. I am asking you if that is correct?

A. Yes, sir; but it is only half the truth.

Q. Tell the whole truth?

A. The whole truth is that as a commercial proposition we had to fix the time for settlement that would insure some return to us in work really done by the agent, in return for the payment by us.

Q. As a matter of fact, it was the plan, and it is a good plan, is it not? It increased the circulation of your paper?

A. That has been a good plan. Now, we made similar offers on the basis of special payments for coaching boys already selling, where we would offer the boy a commission for each new, steady customer secured, and held for a certain length of time, and coterminously with such offer to the boys we have made offers to the district agents, where the district agents get a commission on each such order secured by the boy, the two in combination, linked together.

Q. Now, then, as to these contests that you have been talking about, and these prizes that have been offered, does your circulation in that community in which the prizes are offered, maintain that high stand-

ard, or as a matter of fact does it not drop back frequently?

A. Oh, broadly speaking, you cannot expect either district agents or boys to work in competition, for instance, under high pressure all the time, no more than we can sit here twenty-four hours a day more than once or twice in succession. Broadly speaking, there is some recession after the contest from the peak, but broadly speaking also, a substantial gain over the beginning.

Q. You were speaking a short time ago about coaching these boys. Now, just how do you do that?

A. The boys have been coached by district agents; they have been coached by road men; they have been coached by the pictorial method. We have twenty moving picture films that are in circulation.

Q. Confine yourself now to the district agents, not boys who do coaching, and tell the Examiner just what they do?

A. Of course, there have been variations with respect to the degrees of coaching. We have been so unfortunate as to find a few men who did not want to do anything of that kind.

MR. DALY: Mr. Examiner, I do not want to find fault with Mr. Douglas, but if he would answer more directly——

EXAMINER MOORE: Answer directly.

THE WITNESS: I can illustrate what I mean. Some of these district agents are more efficient than others, and they will take their time to talk with these boys and see them personally, as I have testified before in this proceeding, telling them who to see and what to say and what to talk about; individual demonstrations at meetings. A good many of these men have done this.

Q. Now, then, you send your road men out to coach them at times, too?

A. Road men do the same thing.

Q. What particular equipment have these road men for that work?

A. They are men qualified by experience for this work.

Q. I suppose they are in your service for some time as a rule, are they not?

A. Broadly speaking, yes.

Q. And they go out and tell these boys what to do?

A. Yes, sir.

Q. Now, you have conventions of district agents too, have you not?

A. We have had.

Q. And what is the purpose of those conventions?

A. Broadly speaking, to help the district agents to get the same viewpoint with regard to service to the boys that we have been talking about in this proceeding.

Q. You would have these meetings, and a large number of district agents would be there from the territory in which they were held?

A. To discuss with district agents ways and means of co-operating with these boys—service to the boys. That has been the subject of 90 per cent of those conventions.

Q. Now, then, at these conventions I presume you would have people there instructing the district agents? Is that correct?

A. We have had people there to speak.

Q. As a rule, how are they conducted? The agents take hold of them themselves, and conduct them?

A. Why, somebody from our staff has been present. I, myself, have been present.

Q. I know, but as a rule, how are they conducted in that respect?

A. Like any business meeting.

Q. I know, but what is done towards advising these agents and instructing them?

A. General discussions, debates, addresses, experience meetings.

Q. By the various agents?

A. By the various agents, by the roadmen and by others who are in contact with the work we have been doing.

Q. Whom do you mean by others?

A. We have had, for example, men like the state superintendent of public instruction for Wisconsin, Mr. A. T. Miles, who is on the Council of National Defense right now.

Q. I know who he is very well. Go ahead.

A. He came from California to address our meeting at Detroit some years ago. We had Mr. C. C. Robinson, of the Y. M. C. A., address one or more of our meetings—one in Philadelphia that I think of. We have had men like Meyer Broomfield, now in connection with the welfare work of the National Shipping Board, previously chairman of the Beacon Street Bureau, and I think at present president of the National Vocation Guidance Association, and others.

Q. They would give their addresses along their different lines?

A. Along their different lines, in an effort through our district agents to give these boys a vision of achievement, and looking towards their coming to be worth-while citizens.

Q. So the basis of these conventions, then, is the district—the basic thought about these conventions is to build up your papers. Is not that correct?—the circulation of your papers.

A. That has been the only commercial excuse for such expenditures as we have made on that account.

Q. And you have spent large sums of money in that direction?

A. As stated, in the way of helping the district agents to understand how to conduct this business.

Q. And the road work. This sort of coaching is done to a very great extent by—the first coaching, I am talking about, not the convention work—is done chiefly by your road men; they go around, and the district agents—is that correct, in co-operation with them?

A. Yes; our house organs and our correspondence.

MR. WELCH: You say "chiefly by road men and district agents"?

MR. DALY: Chiefly by road men, together with district agents? No; I did not mean that. Strike that out. I mean that that coaching has been done by road men and district agents.

MR. WELCH: Answer that.

By MR. DALY:

Q. Answer that.

A. Personal coaching, yes.

By MR. WELCH:

Q. That is, personal coaching by road men and district agents?

A. Yes.

Q. And in what other way?

A. As stated, from personal coaching by letters, and house organs, and leaflets, and booklets from our office.

By MR. DALY:

Q. Now, then, you send out these leaflets, and booklets, and they are prepared in your office at Philadelphia, are they not?

A. Yes, sir.

Q. And who writes them as a rule?

A. Different men in our organization, past and present.

Q. Your own men that are experienced along these lines; is that correct?

A. Our own men.

Q. And you mail them out to the boys; is that true?

A. Yes.

Q. And these various little papers and magazines that you have testified about here are prepared in that way?

A. Yes.

Q. And the expense of doing that work is considerable, is it not?

A. As stated in the testimony.

Q. Now, of course, that is of great benefit to your organization, is it not?

A. If we did not think it was a benefit we would not do it.

Q. Do not answer me that way. Say yes or no.

A. We think that is a benefit.

Q. I do not like this way of coming around it. Just say yes or no. Through that source, of course, you have no doubt that your circulation has geen quite largely increased, and that has helped along your prosperity, has it not?

A. Yes.

MR. WELCH: Mr. Daly, may I ask you to define a little more accurately what you mean by "through that source"?

MR. DALY: I mean the advertising plan of sending these pamphlets and booklets to boys.

By MR. DALY:

Q. Now, I want to ask you, if you can give it offhand, and if you cannot, you can prepare it for me, if you will, the circulation of the "Ladies' Home Journal" and the "Evening Post," for 1909, 1910, and up to and including 1915.

A. You mean the sales circulation or total?

Q. Your sales circulation; if you have it there you

can read it right into the record. We do not want the subscriptions in this.

A. 1909 first, I understood you to say?

Q. Yes.

A. The average weekly "Post" sales division circulation for the year ended June 30, 1909, was 720,000-odd.

Q. Per week?

A. Per week. The average monthly "Journal" sales division circulation during the same time was 60,000-odd.

Q. Now, 1910.

A. Correspondingly, in 1910, of "Posts," 988,000-odd; "Journals," 205,000-odd.

1911, "Posts," 1,186,000 odd; "Journal," 426,000 odd.

1912, "Posts," 1,266,000 odd; "Journal," 602,000.

1913, "Posts," 1,326,000; "Journal," 671,000.

1914, "Posts," 1,330,000; "Journal," 697,000.

1915, "Posts," 1,258,000; "Journal," 746,000.

1916, "Posts," 1,222,000; "Journal," 775,000.

1917, "Posts," 1,232,000; "Journal," 773,000.

Q. That is up until?

A. The year ended June 30, 1917.

Q. This does not include the subscriptions, as I understand?

A. No subscriptions.

Q. I think you stated that the "Journal" was monthly.

A. Monthly, and the "Post" weekly.

Q. Now, then, can you give me, for the same period, the same information as to the number of magazines which you distributed, of each of the magazines that I am talking about, that you distributed through the American News Company, beginning with 1910, say?

A. I would have to get that for you.

Q. Will you get that, please?

A. Yes.

Q. Do you send out many copies direct to boys, Mr. Douglas?

A. We send direct to boys.

Q. Any material number?

A. I could not give you the numbers. I would not like to say offhand.

Q. Well, I do not want it particularly, but in large numbers?

A. Not in such large numbers as I have given here. The total circulation through the boys that we deal with direct is very much less than the distribution.

Q. You can get me that information readily, covering that same period, or for a few years back?

A. I don't know whether I could do that. I could give you something practically current on it. I don't think I have got that data away back.

Q. Will you do the best you can for me?

A. Yes.

MR. WELCH: Mr. Daly, we understand Mr. Douglas can not get these figures until he gets back?

MR. DALY: Yes; that will be all right.

By MR. DALY:

Q. Now, through these magazines that you publish and circulate, there is considerable space, I suppose, in them, devoted to advertising; is that correct?

A. Yes.

Q. Now, to what extent do the charges for advertising depend upon the circulation?

MR. WELCH: I object to that question. It is entirely without any issue in this case, incompetent, irrelevant and immaterial. I do not know the purpose of it. It seems to be entirely irrelevant to this case.

MR. DALY: Now, Mr. Examiner, the reason for

that question is this, that Mr. Douglas has testified as to large expenditures of money in the development of these various plans for circulating these magazines, and they are large sums, and further, he has testified as to magazines that were given to boys. He gave large numbers of magazines to boys—half a million a year, something to that effect, and that these magazines furnished the boys were furnished at less than cost, and one of the purposes, or the purpose of this question, is to show that the basis of this—all of this plan, to a certain extent, is not only to make a larger circulation, as he admits has been done, but for the reason that large revenues can be obtained from this source of advertising, and that is the ground for urging this question. I think it is perfectly admissible on those grounds.

MR. WELCH: Mr. Examiner, I would like to call attention to the fact that we must be bound in this case by the issues raised by the pleadings. Now, this complaint sets forth and charges violation of certain sections of the Clayton Act in the Federal Trade Act, resulting in a suppression of circulation on the part of the Curtis Publishing Company, of its competitors, so-called. Now, the question of what the object of circulation is, whether it is to raise the price of advertising, or to lower the price of advertising, or what not, has nothing whatsoever to do with the question of whether or not this contract that the Curtis Publishing Company has with its agents affects the circulation in interstate commerce of any competitor. That is the only issue in this case. To try to say that because we spent money in building up circulation, that the ultimate object of that circulation is to get or not to get certain prices for advertising, is so foreign to any issue in this case that I

cannot see on what possible theory it could be considered material or relevant. The question of the reason for the circulation—the effect of the circulation on the Curtis Publishing Company or the "Pictorial Review," or any other magazine, has nothing whatever to do with the question of whether or not this contract operates as a restriction in interstate commerce on the circulation of other publications, and that is the only issue in this case. Why, it is going to open an issue here that is going to be perfectly tremendous. Is it not reasonable to suppose that if the Curtis Publishing Company's circulation is built up for the purpose of advertising—assuming that is true—that the "Pictorial" is for the same reason; that the Crowell Company's circulation is built up for the same reason, and that every other circulation is built up for the same reason? If we are going into that question, it is going to open up an issue that is not only immaterial in the case, but it is going to be a big issue in the case, and I protest bringing into this case such a foreign matter.

MR. DALY: I do not want to make a long argument about the thing, if the Examiner please, but he has, himself, gone into the point that these magazines were given away to boys, and that they were sold at a loss; that the cost of the magazine was more than what they received for it, and it seems to me that under those circumstances, if no others, that we ought to be permitted to show in this case how they do business about these matters—how they make these large sums of money that they have testified, where the revenues come from, it seems to me.

MR. WELCH: There is no testimony about large sums of money or revenues in this case, is there?

MR. DALY: Yes.

MR. WELCH: That is not revenue, money paid out.

MR. DALY: Where this particular money comes from; how they live and how they get these sums. It goes to the point of the whole business of this concern.

EXAMINER MOORE: Read me that question and several questions back.

(These questions were repeated by the reporter as above recorded.)

EXAMINER MOORE: We will let the witness answer the question. I want to reserve decision on that. The witness may answer.

MR. DALY: Mr. Examiner, if you are going to reserve decision, I think it would be better for the record not to let the witness answer. It is just a suggestion. You can act upon it or not, to suit yourself.

MR. WELCH: Mr. Examiner, just let me add that there is not a word in this case, from beginning to end, as to any revenues coming into any one of the parties that have been mentioned. There is nothing of that sort in the case. Now, if we are going into the question of how much money one company or another company makes, and how it makes it, and the practice of the business by which they make it, it is opening up an issue that is not in the case. It is certainly not raised by anything in the pleadings, and so far as I can see is not material to anything that is charged in this complaint.

EXAMINER MOORE: I think he has laid a foundation for it, though, in the statement that the circulation was at a loss.

MR. WELCH: Circulation of what?

EXAMINER MOORE: I think there was a state-

ment made by the witness in reference to being operated at a loss.

MR. WELCH: I do not remember that he made that statement.

MR. SPIESS: Page 1877 of the record.

MR. DALY: This was the statement I referred to.

MR. SPIESS: Page 1877.

MR. DALY: On page 1877, the Examiner asked the question, "Are the figures based on the cost to you or what you charge for them?

"The WITNESS: Based on the retail cost of the magazine, because it costs more to produce and deliver them than we get for them."

MR. WELCH: That is perfectly correct and consistent with my argument that it costs them more to produce than they get for them by selling them.

MR. DALY: You are reserving your decision on that point?

EXAMINER MOORE: Yes.

By MR. DALY:

Q. Speaking of giving away these magazines, you testified yesterday that you gave away large numbers to the boys?

A. Yes, sir.

Q. Just how do you do that? I have forgotten the testimony about that.

A. The boy signs a card on which he states that for as many as he sells of those we give him he will buy a corresponding number of the next issue. The copies in this way are merely given for the purpose of starting the boys in the business. They have no capital, and no money——

Q. I understand that.

A. It is merely a means of starting the boys. We might——

Q. He never pays for these first magazines, as I understand it?

A. In some cases they do, but generally, in a broad way, no.

Q. In what cases don't they?

A. It will occasionally happen that a district agent has as many boys as he thinks he needs, and in those cases he will not start the boys with this plan. We leave it to the district agent generally.

Q. Wherever a district agent thinks a boy ought to be put into the business——

A. Whenever a district agent thinks a boy ought to be put into the business; yes, sir. The district agent has some of these cards and the boy signs the card.

Q. And you give him a quota to start business with?

A. The boy simply promises that if he sells the first five, he will buy five more. We might as well give the boy 25 cents to start out in business.

Q. But you do give him the magazines?

A. With the understanding that as many as he sells he will buy of the next issue—buy the same number of the next issue.

Q. In most cases they come back and buy?

A. Let me say that those copies are sent to the district agent, and the district agent has paid us for those copies, and we credit the district agent with 3 cents per copy, upon his sending us a card signed by the boy. Those copies, in other words, are paid for in the first place by the district agent, but we credit the district agent after the card comes in with the same amount, as if the boy had paid cash for them. The boy, in other words, gets the copies as stated, and the district agent earns the same commission as if he had sold them in the usual course of trade.

Q. And he gets the copies in that way, provided he comes back for five more copies?

A. He gets the copies upon signing the card, and we rely upon the boy's promise to buy the next issue correspondingly in the number of copies he gets.

MR. WELCH: The boy gets the copies free?

The WITNESS: Yes, sir.

By MR. DALY:

Q. But, in the event he does not come up to this matter of five—come back and get five more——

A. The boy promises to sell the next issue—sell of the next issue as many as we give him of the first lot. If he gets three, he promises to sell three of the next issue.

Q. Suppose he does not do anything—does that happen?

A. That sometimes happens.

Q. Then what happens?

A. Then the district agent may get the copies back. Doubtlessly they get them back and possibly they sell them over again if they have a demand for more copies than they put out the first day.

Q. In any event, if the boy does not come back to the district agent after getting copies, who loses?

A. The district agent sends in the card with the boy's signature on, and if the district agent is not able to recover them for any reason, we lose.

Q. You testified you gave, for a period of time, 546,000 copies?

A. Yes, sir.

Q. In speaking of your circulation, would those particular copies be included in these figures that you gave for your circulation or not?

A. The sales division circulation figures that I gave were the gross sales distribution.

Q. And that would include these copies you sent the boys?

A. Yes; those figures were the gross sales distribution, including those figures.

Q. That you gave to the boys?

A. Yes, sir.

Q. Now, that is a very good means of increasing your sales, too, is it not?

A. It is a convenient means of furnishing the boys with the capital to pay the district agent.

Q. And it is a very efficient way to get the boys to take hold?

A. It is a short cut.

Q. That is one of the plans or part of your plan that has been successful from your viewpoint—is that correct?

A. Yes, sir.

Q. As I understand it, the usual street boy—the newspaper boy I am speaking about—as a rule is not in your organization?

A. There are some in the organization, but the number is comparatively small.

Q. Most of them are schoolboys—a different type of boy?

A. Yes, sir.

Q. You have had great experience in trying to build up that boy organization. As a matter of fact, a great many of them do not stay, do they, when they come with you?

A. Of course, some do not.

Q. Quite a large percentage drop out and come back?

A. That depends on what you are comparing that with.

Q. Compared with the number of them that you use—that you have—that you get every year, for instance. If you were to get a certain number of boy in

1916, about what percentage would you say would stick and what percentage would drop out? You have had some experience along that line.

A. I have no exact figures.

Q. I do not want exact figures.

A. I can give a rough estimate.

Q. Give us a rough estimate, then.

A. On circularizing a list of names of boys, about one in twenty circularized will try to sell; that is, he will come to the district agent and take copies.

MR. WELCH: That is not what he asked you, Mr. Douglas.

The WITNESS: I was coming to that. And about one in three of those that start will make good.

By MR. DALY:

Q. You mean stay for some reasonable length of time?

A. Stay for some length of time; that, of course, depends a good deal on the individual district agent. On the other hand, we have a great many boys who have been with us for a long time, for a good many years.

MR. WELCH: Mr. Daly, why do you not ask that question again, and see if you can get an approximation. The percentage of the figures of boys that stay and the boys that come in through a year —the answer is not clear to me at all.

By MR. DALY:

Q. As I understand it, only one out of three boys—that circularizing a given number of boys, that about one out of twenty would respond and of three responding, one would stick—is that correct?

A. That is approximately correct.

MR. MILBURN: You wanted the mortality of the ones sticking.

MR. DALY: I said these that stick, stay with you some length of time?

MR. WELCH: I wanted to get it clear, so as not to have to go into it again on redirect examination.

The WITNESS: Of those that stick, I could not give you figures. We have no figures.

By MR. DALY:

Q. I said a reasonable length of time—would many of them stick six months, for instance?

A. Oh, a good many.

Q. Have you any idea how many would stay a month?

A. One in three would do better than that.

Q. You are speaking of the stickers now?

A. That one in three that I have given; yes. Some remain for years—ten and twelve years, some of them.

Q. Is the proportion of those very large that stay for years?

A. To really answer that question, you see, we would have been obliged to keep a record as to the starting time of every boy on the staff. Obviously, the clerical expenses in connection with that would be entirely disproportionate to any use which could be anticipated. We have no such data and I do not know where they could be gotten.

MR. DALY: Mr. Examiner, in this connection, we were given a large number of reports of salesmen or roadmen of the Curtis Publishing Company this morning, and I think that it would expedite matters to let this matter go over until tomorrow and give me an opportunity to go over those figures. I could not sensibly cross-examine this man unless I had an opportunity to examine them and go over them.

EXAMINER MOORE: Very well; we will take a recess now until 10.30 o'clock tomorrow morning.

(Whereupon, at 4.30 o'clock P. M., a recess was taken until 10.30 o'clock tomorrow, Thursday, April 18th, 1918.)

---

BEFORE THE FEDERAL TRADE COMMISSION.

*The Federal Trade Commission,*
v.
*The Curtis Publishing Company.* } Docket No. 15.

Court Room 2, Woolworth Building,
New York City, N. Y.,
Thursday, April 18, 1918.

The hearings in the above entitled matter were resumed at 10:45 o'clock A. M., pursuant to adjournment.

Before: EXAMINER CHARLES S. MOORE.

Appearances: MESSRS. A. M. DALY and L. A. SPIESS, on behalf of the Commission, and JOSEPH W. WELCH, ESQ., and JOHN G. MILBURN, JR., ESQ., on behalf of the Curtis Publishing Company.

M. E. DOUGLAS resumed the stand for further

CROSS-EXAMINATION (Continued).

By MR. DALY:

Q. Now, Mr. Douglas, yesterday you spoke of Y. M. C. A. memberships that boys could obtain through your plan. Will you explain how they secure those memberships?

A. When a boy is promoted to the League, we refer him to the Y. M. C. A. secretary, if there be a Y. M. C. A. in the town in which the boy lives, and upon the receipt of the bill from the Y. M. C. A., we remit to the Y. M. C. A. for the boy's dues.

Q. Then, this membership is secured through particular efforts of the boy in advancing the sales of your magazine?

A. Yes, sir.

Q. Under Clause 13, it frequently happened, did it not, that the wholesale dealers or many wholesale dealers would execute a contract and ask permission of you or of your company to handle other magazines—is not that correct?

A. A comparatively small number of the district agents asked our sanction of their wholesaling other magazines.

Q. I am speaking now of what has been termed throughout the record, wholesale dealers; those that handled your magazines, other magazines, or those that handled your magazines and other magazines and newspapers.

A. But the term "wholesale dealer" has been used so broadly——

Q. But I am calling your attention to this particular kind.

A. With respect to the district agents only, and to no other wholesale dealers——

Q. I am asking you this, if the wholesale dealers that I have described to you did not frequently ask permission of you to put in other magazines?

A. A comparatively small list of our district agents asked permission.

Q. Now, I am asking you——

EXAMINER MOORE: What is the question?

MR. WELCH: I submit he has answered the question.

MR. DALY: I do not think he has.

MR. WELCH: Mr. Daly is trying to force him to admit there are 1500 wholesalers in the country. I do not think that it is——

MR. DALY: I am not trying to force him to say anything.

MR. WELCH: He has answered the question.

MR. DALY: I want a square answer to this. I do not want these roundabout answers. I am entitled to a square and open answer. I am trying to ask the question in an open way.

MR. WELCH: You are coining the word "independent wholesaler."

MR. DALY: I did not say anything in the question about independent wholesalers.

MR. WELCH: Well, wholesale dealers.

MR. DALY: Wholesale dealers, and I described them—dealers that handled your magazines, other magazines, and dealers that handled your magazines and other magazines and newspapers—that type. Now, I have a right to an answer to that question.

MR. WELCH: That is all right; let him answer it.

MR. DALY: That was the question I asked.

THE WITNESS: Yes.

By MR. DALY:

Q. Did you always give permission when those requests were made?

A. No.

Q. You were asked at different times by this same character of men that I have described in my questions, if they could handle the "Pictorial Review," were you not?

A. A comparatively small list.

Q. I did not ask how many.

A. Yes.

Q. I will ask you that. In what instances did you grant permission to handle the "Pictorial Review"; under what circumstances, if you did at all, did you grant permission?

A. We granted permission in five or six cases.

Q. What sort of cases were they?

A. Mr. Ramroth, of Troy, New York; Mr. Solomon, of Cleveland, Ohio, the predecessor of Mr. DeWolf, of Indianapolis, Indiana, and two or three others.

Q. Then, in all other cases, where you had contracts with the kind of dealer that I have described to you, if permission was asked by them to handle the "Pictorial Review" you refused to do it, did you not?

A. Yes; and those gentlemen named were also under contract with us.

MR. WELCH: Were also what?

THE WITNESS: Also under contract with us.

By MR. DALY:

Q. Why did you permit these five gentlemen then —since you have spoken about that—to handle the "Pictorial Review."

A. Because it did not appear at that time that there was any generally objectionable method to us on foot.

Q. You mean by that, that that was early in the history of the "Pictorial Review" matter?

A. It was before the subsequent developments had been brought to our attention.

MR. WELCH: In what way?

MR. DALY: And about the time of the breaking away from the News Company?

THE WITNESS: This was early in 1917, and before.

By Mr. Daly:

Q. Now, in what part of 1917 did you actively begin to refuse permission to this sort of dealers to handle the "Pictorial Review."

A. There was at least one case before the middle of the month, but generally speaking, not until the latter part of the month.

Q. Which month?

A. The latter part of February.

Q. In the case of "Every Week," what did you do towards asking the dealers to refrain from handling that magazine under the contracts?

A. With "Every Week," as with "Pictorial," we granted permission in a number of early cases until it developed that the methods in use or contemplated would be generally objectionable to us—that is, in individual cases, we granted it.

Q. You granted a number, or several?

A. Yes, sir.

Q. You granted permission several times to the agents?

A. Yes, sir.

Q. To this type of agents I am describing to you?

A. Yes, sir.

Q. Now, then, you say after certain methods became objectionable, you changed your procedure—is that correct?

A. After we learned that the methods in use or in contemplation would be generally objectionable, then we changed our methods.

Q. What were those methods in the case of "Every Week"?

A. In the case of "Every Week," among other things we found that they were beginning to sell through boys—push a boy plan similar to ours.

Q. When they began to put in a boy plan, similar to yours, then you objected—is that correct, now?

A. Yes, sir.

Q. And thereafter you would not grant permission to this type of dealer to handle "Every Week"?

A. Yes. The bulk of our objections were probably after February of 1917.

Q. About the same time that you began to object to the "Pictorial Review" people—is that correct?

A. Generally speaking, although there were instances before, although a comparatively small number.

Q. Now, in the case of "Colliers' Weekly," what did you do with reference to this same matter?

A. With "Collier's," as with the others, we gave sanction in some cases, and refused it in others.

Q. When did you first permit "Colliers" to be taken on by these agents or these dealers?

A. You want to know the first instance of sanction being given?

Q. Not the first instance, about when.

A. That would be several years ago.

Q. And can you fix about when you began to object?

A. Well, we objected in individual cases, where the agent had apparently all he could do without handling any more, but generally speaking, objections on "Collier's Weekly" were limited to the selling through boys—that is, where we gave sanction it was with the understanding they would not sell through boys.

Q. And whenever it came to your notice that they were trying to sell through boys, then you objected?

A. Yes; we made inquiries on that point, and in some cases we objected.

Q. Now, did you object to the putting on of "Collier's" along about this same time, in 1917?

A. Not in the same way as in the other cases.

Q. What way did you object there?

A. In "Collier's" case?

Q. Yes; along in 1917, did you still operate in the same way with reference to the putting in of their magazine, as you had been doing, or did you change your policy?

A. Practically the same.

Q. Now, you permitted various of these dealers to put on other magazines, did you not?

A. Yes, sir.

Q. The "Literary Digest," for instance, the testimony is that you permitted that?

A. In some cases, yes, sir.

Q. Now, when did you permit the "Literary Digest" to be handled through these men?

A. I think the first applications came to us about February, or approximately February, 1917. We refused in some cases and granted in others.

Q. In how many cases did you refuse, do you remember?

A. Not a large number of cases.

Q. Very few cases, were there not?

A. Yes; comparatively few.

Q. Now, in what kind of cases was it that you refused this permission to the "Literary Digest" people —I don't know the name of their company?

A. Why, we refused to give sanction in some cases, until we could satisfy ourselves as to what their methods were probably going to be.

Q. As a matter of fact, you sent out a circular or a letter to these various agents, with reference to this subject, and I call your attention to it, because it is in the record, and without referring to the letter, I will call your attention to this particular part, in which it says that "You must not make any contracts." The substance of it is that you must not handle any—make

any contracts with the "Literary Digest," except on terms by which they can be cancelled within sixty days —such contract can be cancelled within sixty days.

A. Not a circular letter, I think. There might be one or two personal letters of that sort out.

Q. Did or did not those letters go out generally?

A. Not generally.

Q. To what extent did they go out?

A. To a few of the early individual applicants.

Q. Did or did not your road men advise these agents on that point?

A. On the "Literary Digest"?

Q. Yes; when they could handle it and when they could not.

A. Well, generally speaking, our road men would instruct the district agents to inquire of us what to do.

Q. You think then that they did not tell them they must not put them on?

A. Not generally speaking. The custom would be for them to communicate with us. There may have been individual instances of that sort.

Q. You have no doubt that there were some, have you?

A. I do not know that there were.

Q. Did you have many requests from this sort of wholesaler or dealers of this character?

A. As to what?

Q. Getting permission under this clause?

A. As to our publication.

Q. Well, as to the "Pictorial Review," for instance?

A. A comparatively small number, considering the whole number.

Q. About how many? I am speaking of this type. About how many of this type of dealers are there in this country?

A. Less than two hundred, I believe.

Q. What do you mean by that, less than two hundred of this kind of dealers?

A. All told.

Q. Less than two hundred. Now, be clear about that.

A. Of all our district agents, less than two hundred applied.

Q. You mean by letter?

A. By letter, to our home office.

Q. Or by personal application.

A. Of which we have any record.

Q. Or to road men. Do you know anything about that?

A. The road men, as I stated, generally advised these men to communicate with the home office.

Q. There would not be any instance where the road men would write in and make inquiry for the agency?

A. There might have been an individual instance. In such cases they would be included in my statement as to the number.

Q. In most of those cases, however, Mr. Douglas, would it be true that they were large handlers of your papers and other magazines and newspapers?

MR. WELCH: Are you referring now, Mr. Daly, to the less than two hundred agents that applied?

MR. DALY: Less than two hundred, I am talking about.

A. Oh, there were all classes, some large and some small.

By MR. DALY:

Q. Now, you have heard the testimony in these various cases that went into the record some time ago? You were present, were you?

A. Yes.

Q. Was that testimony correct as to the persons who applied?

MR. WELCH: I do not want to delay this, but I think that is too general.

MR. DALY: Well, I think it is, too. Just strike out that question.

By MR. DALY:

Q. Now, will you describe to the Examiner the various ways in which these particular wholesale dealers I am speaking of—you can call them what you please—do business, handle magazines, newspapers and your magazines if they do—how do they get them out to the customers?

A. Of course, that varies a good deal with the city. In some cases, they have delivery service. In some cases the boys come to them for the copies. Probably certainly in the majority of cases the boys come for the copies. In a few cases in the South for instance, they send them out with colored boys, and in some cases they go out in go-carts.

Q. Now, there are a number of men that testified that they had contracts with you in this case, and you know the names of those men, and you have testified that—according to my recollection you testified yesterday that you tried to select the efficient men and the leaders of boys in the community. Is that correct as to these particular men that testified in this case?

A. We tried to get our—our road men were under instructions to get generally men qualified for leadership of boys; like the Y. M. C. A. and the Boy Scouts, we have our troubles in finding the men.

Q. I understand that, but when you select a man, I think this is what you mean by your testimony. If it is not, why, correct it. When you selected these men that have testified in this case to take on your magazines, you considered them to be the most capable men in that line, and also leaders of the boys, did you not?

A. I would not say the most capable. There were

some cases where the most capable man— the man we would like to get, did not want to give his time and effort to this work.

Q. Take any of these cities that have been testified about, and in what cities did that condition apply?

A. I think of one city. I am not sure I understand your question.

Q. I asked you when you selected these men, if you did not consider them to be the most capable men for your work in that community?

A. Not always.

Q. Well, now, in what cases was it?

A. It would happen in some cases and the man we would particularly like to get would not be willing to give his time and effort.

Q. Now, name some of those cases, if you can recall any?

A. I could not off-hand name particularly men who were unwilling to come with us the first time we approached them. I could find such.

Q. In most instances the men that testified in this case had been with you for a long period, had they not, or some reasonable length of time?

A. Probably most of them.

Q. Several years, the testimony was?

A. Yes.

Q. Now, when you made contracts with these men, confining yourself now to the men that have testified as wholesale dealers, as they call themselves, they began to handle your publications, did they not? After entering into the contract they began to handle your publications?

A. Yes.

Q. And got them out to the customer?

A. Yes.

Q. Now, did or not your circulation begin to rapidly increase, through that particular kind of men?

A. In some cases it did, and in some cases it did not.

Q. Now, on the whole, did you secure an increase or not?

A. I never made a calculation with respect to the exact class of men you mention. I think it is safe to say, though, that generally speaking our circulation increased through all agents that we dealt with on that basis.

Q. That is what I wanted to know. Your circulation began to increase?

A. Through our district agents, generally speaking.

Q. There might have been an instance where they did not do so well. Some would do better and some would do less.

A. We had to make changes among the men you are speaking of, because a good many of them had too many irons in the fire. I think of one man in particular in this connection that had too many irons in the fire.

Q. Which one is that?

A. In Milwaukee.

Q. Did he testify?

A. No; his brother testified.

Q. Which man is that, Annenberg?

A. Moses L. Annenberg.

Q. Do you know why you took the agency from him?

A. Because he had too many irons in the fire.

Q. What did he handle?

A. Newspapers and magazines.

Q. Now then, have you since that time tried to get him back?

A. No; he has tried to have us put him back, like Mr. Braelow, of Newark.

Q. Now, do you know one magazine Annenberg is handling?

A. No.

Q. Do you know whether he is handling more than one besides yours?

A. I do not know.

Q. Or more than two or three?

A. I have not been in touch with what he is doing for some years.

Q. When his agency was cancelled is the time I am referring to. Do you know what magazines he handled?

A. The newspapers and magazines. I could not detail them. He was interested in a spoon proposition out of town, and leaving the work to subordinates and all that sort of thing.

Q. You don't know actually what magazines he did handle; is that a fact?

A. I could not designate just what ones he did.

Q. Or how many?

A. I know he handled a number.

Q. Now, these dealers in promoting the sale of your magazines, according to my recollection, go to the retailer with them, don't they, in most instances?

A. Some of them do, some of them not.

Q. The testimony I think in every case was of the ones that testified here that they all said that they did that?

A. Whether or not the question was asked of all, I could not say. In most cases, probably so.

Q. Of those two hundred you are speaking about, or less than two hundred, would not that apply generally in all of those cases?

A. Not in all.

Q. In most of the cases it would be true, would it not, where a man handled the magazines to any extent or the newspapers?

A. I never made that sort of calculation, but I know it represented small towns where there was no delivery service and cities where there was.

Q. In larger cities there would be promotion service?

A. There would be delivery service in the larger cities.

Q. Now, in the case of the news company, that was not a fact, was it?

A. What do you mean?

Q. When you were delivering through the American News Company, you did not get that same service? That is to say, the News Company did not deliver everything to the retailer?

A. In the cities where they had branches, they delivered to the retailers, yes.

Q. But in a great many cities, the testimony shows that they did not have branches?

A. Not by their own wagons, of course, in those cases, no.

Q. Now, as a matter of fact, one of your reasons for going from the News Company was that you thought you could increase the circulation of your magazine, did you not, by so doing?

A. As I testified yesterday——

Q. Why don't you answer me now?

MR. WELCH: Now, I submit that the witness is entitled to answer that question. The question itself is testimony.

THE WITNESS: As I testified yesterday, we tried for years to prevent our district agents from supplying news dealers, and we could not do it, and we only authorized our district agents generally to sell to the news dealers generally, after we found that we could not prevent it. Of course, when we did find that we could not prevent it, and as a practical measure had to do this thing against our preference, for the reason I stated yesterday, then we did what we could to make the best of the situation.

Q. A letter was introduced yesterday that I referred to—

MR. WELCH: What sort of a letter is it?

MR. DALY: It is a general letter.

MR. SPIESS: Commission's Exhibit 193, page 1980.

By MR. DALY:

Q. I call your attention to that exhibit, and I want to call your attention to one of the last paragraphs on the first page, in which this statement appears:

"A service costing hundreds of thousands of dollars annually we maintained for years at a loss, and during the lean years our district agents took their profits, when we had none, but we persisted and carried out to the last degree every promise that was made."

Now, I want to ask you what that actually is, Mr. Douglas?

A. If you will pardon me until I find it.

MR. WELCH: Page 1981, Mr. Douglas, at the bottom of the page.

THE WITNESS: Why, I referred to our total sales division costs such as I testified to here yesterday. I referred to our total sales division costs mentioned there during those years when, as I stated, they were lean years for us.

Q. Well, then, had that any reference to the way of doing business through the American News Company?

A. It had reference to our sales division plan.

Q. Through the American News Company?

A. No.

Q. What do you mean, then, by a long number of years—did your sales division plan cover that long period of years?

A. The sales division plan began, as I testified here before, in 1889.

Q. When did you go away from the American News Company?

MR. WELCH: With respect to the "Journal" or the "Post" Mr. Daly?

MR. DALY: Both.

THE WITNESS: With respect to the "Journal," in 1910, and with respect to the "Post," approximately 1908, or 1910.

By MR. DALY:

Q. How did you operate with the American News Company prior to that time—you said yesterday, I think, that you operated on the returnable basis. Was that true for the whole period of time that they represented you?

A. I testified yesterday we operated now on a non-returnable basis.

Q. Was there any period that you operated on a returnable basis?

A. Yes, sir; I think there was.

Q. When you operated on that basis, then, were the returns large or small that they made? I am speaking now of the copies returned.

A. I could not answer that.

Q. You do not know?

A. No; it has been so long ago I could not answer that.

Q. You could get that information, could you not?

A. I do not know whether we have those records or not. If we have, I could give them to you.

Q. You did get some back, did you not?

A. Yes, sir.

Q. And in that case you lost the cost of the magazine, and you would have to pay for the cost of having them returned, would you not—that was the general scheme of it?

A. That is so long ago I could not state.

Q. It has been testified all the way through here that that was their plan——

A. Not by us—by other publishers it has been so testified.

Q. You do not know about that?

A. I could not answer. It has been so long ago I would not like to make a statement.

MR. DALY: Read that question back there, Mr. Stenographer.

(The stenographer repeated the question referred to as follows):

"Q. And in that case you lost the cost of the magazine, and you would have to pay for the cost of having them returned, would you not—that was the general scheme of it?"

By MR. DALY:

Q. If any magazines were returned, it would be at a loss to you?

A. Yes; there would be a loss.

Q. During that period, at least, the profits to your company, in dealing that way, would not be as great as they would be when you were operating on a non-returnable basis—is not that true?

A. No; I do not think that follows.

Q. Why not?

A. You mean with respect to the News Company only?

Q. I am speaking of the News Company only now.

A. With respect to the News Company—yes; I think that is true.

Q. And they handled a large quantity of your magazines, did they not, during that period?

A. Yes.

Q. Now, what price did they give you for the "Journal" and for the "Post."

A. The prices now are 2¼ cents for the "Post"—

I want to get this exact—8¾ cents for the "Journal" and 2 cents for "The Country Gentleman."

Q. Are those the present prices?

A. Yes, sir.

Q. Can you give me the prices—I am speaking of the present prices, in your dealings with the American News Company—that is what you meant?

A. Yes, sir.

Q. When you operated on a returnable basis, do you know what prices you got?

A. That is so long ago I would not like to answer. I would rather have an opportunity to look that up.

Q. Can you look that up for me?

A. Yes, sir.

Q. You will get those figures?

A. Yes, sir.

Q. You stated yesterday it was cheaper to do business through the American News Company than it was through this other plan. You were speaking of your operations on a non-returnable basis, and not on a returnable basis—is not that correct?—or were you speaking of the whole time? What did you base your judgment upon in making that statement?

A. Well, it was true——

Q. How did you arrive at it? You must have had some basis.

A. It was true with respect to the non-returnable basis, and it is true also with respect to the returnable basis.

Q. I am asking you how you arrived at that conclusion. You must have some reasons for it. Upon what do you base that sort of a statement?

A. Upon the fact that distributing through the American News Company at practically no cost—they pay us the agreed price and they distribute. On the other basis, we have to pay the expenses of mailing the magazines, and freighting them and expressing them,

and the expenses necessary to maintain sales organizations, as I have testified heretofore.

Q. Confining your answer to these particular wholesale dealers that I am talking about, does it cost you more money to do business through them than through the American News Company?

A. Yes.

Q. In what respect, now?

A. Just as stated.

Q. Just as stated?

A. Yes, sir.

Q. Are those the only reasons you have for stating it is cheaper to do business that way than it is through the wholesale dealers' proposition?

A. Those are reasons enough.

Q. That is not the question. Just answer the question. I am trying to get the truth of this situation. That is all I care about.

A. May I make a statement right here?

Q. Yes.

A. I think Mr. Peacock has prepared some data on this that he can give you. I have not gone into the matter in detail. I only know what the situation is in a general way.

Q. You have testified about this matter and I just want to know what you know about it. What you know about it is all I want.

A. Well, I have given you all I know about it in a general way.

Q. You would get a greater return, however, from your magazines, would you not, through the other system than through the News Company—that is, you would sell more magazines—you would get more money for the magazines?

A. Yes.

Q. You said your circulation immediately increased.

MR. WELCH: I do not think it is fair to say his circulation began to increase immediately.

MR. DALY: Whatever he said about that. You testified this morning that the circulation increased through these agencies that I am speaking of.

A. It has gradually and steadily increased through all our sales agencies.

Q. I am speaking about these particular ones.

A. It has generally increased.

Q. Therefore, you would get greater revenue, because of the number of magazines you put out—if you sold more magazines you would get more money?

A. That would be only a half truth, because that question of yours——

Q. I am speaking of receipts now.

A. The price per copy paid us by those agents was greater than the price per copy paid by the News Company, but that was greatly offset by the expenses I mentioned yesterday.

Q. I ask if it is not a fact, when you began to deal with these agents that I am speaking about—or dealers—called by you agents—that you got more per copy for your magazines——

A. The price per copy from them was greater than the price per copy from the News Company, but the expenses of supplying them more than offset it.

Q. But you were selling more magazines, were you not?

A. Yes, sir.

Q. That is what you said?

A. Yes, sir; not because of the shifting from the News Company, however.

Q. What did you get——

MR. WELCH: Let him answer.

MR. DALY: That is not an answer to the question.

THE WITNESS: I think so.

MR. WELCH: The witness has answered and he wants to explain his answer now.

MR. DALY: He is not explaining his answer.

MR. WELCH: He is, and he is explaining how the circulation increased.

MR. DALY: I asked another question entirely. You can take him up on that if you want to. It makes no difference.

By MR. DALY:

Q. What price did you get from these wholesale agents; as I understand it, you got the same prices, did you not?

A. Two and a half cents on the "Post."

Q. What did you get a copy for the "Journal"?

A. Nine and three-quarter cents.

Q. Now "The Country Gentleman"?

A. Just at this present time, two cents; two and a half cents, beginning June.

Q. Now, about the time you began putting in these agencies, did the prices run about the same?

A. Yes, sir.

Q. And were the prices to the News Company the same as you have testified here?

A. I did not state the prices to the News Company in those early years, and I would not want to do so from memory.

Q. Will you get those figures?

A. We will get those.

Q. How many retail news dealers do you supply direct with copies of your magazines?

A. I could not answer.

Q. Are you supplying any?

A. Yes.

Q. Any reasonable number?

A. Some thousands. I could not say how many.

Q. What do you get for your magazines from them?

A. There are two lists; one list pays us three cents for the "Posts," 11 cents for the "Journal" and 3 cents for "The Country Gentleman." There is another list that pays us 2¾ cents for the "Post," 10½ cents for the "Journal" and 2¾ cents for "The Country Gentleman."

Q. Now, you speak of these various lists. What list is it that pays you 11 cents for the "Journal"?

A. Those are retail dealers who order from us for their actual demand, agents—sometimes several in a town—under no quota obligations.

Q. Quite a number of them, are there not?

A. Some thousands.

Q. And that is true of the other kind that you have spoken about—quite a large number of them?

A. Some thousands.

Q. In each list?

A. Yes, sir.

Q. And they are scattered everywhere, all over the country?

A. Different parts of the country.

Q. And they return the copies they do not sell?

A. Yes, with limitations.

Q. What are those limitations?

A. This list paying the lower rates that I mentioned have the privilege of sending returns not exceeding 15 per cent. of their drawings—I am speaking of the "Post"—provided their sales are up to the quota. On the "Journals," 10 per cent. per month, not exceeding 7 per cent. for any three successive months.

Q. Now, then, in those cases where these returns were made, those magazines are lost to you or to your company?

A. Yes, sir.

Q. And the expense of returning them, of course, you would have to pay?

A. No.

Q. They pay the expense of returning?

A. They send the covers back.

Q. They send the covers back and pay the mailing expenses?

A. A fractional part of the cover, I think.

Q. Now, in that same letter or circular to which I called your attention a while ago further on down at the bottom of the page——

A. Which page?

Q. The first page, the very next paragraph——

"Thus we worked for years in behalf of our district agents, our P. J. boys, our newsdealers and finally by square dealing established a successful sales organization on a permanent basis, profitable to you and to us."

Now, then, you say it was profitable both to the dealer and to you. Now, how do you conform that statement with the statement you have made with reference to the prior paragraph?

A. Well, I was speaking of different periods of time.

Q. That it was more expensive to do business——

A. No; it was different periods of time.

Q. This was dated June, 1912, and you had only been away from the News Company a short period of time.

A. These two paragraphs speak of different periods of time. I was speaking of lean years and other years.

Q. What years are you speaking of here: "Thus we worked for years in behalf of our agents"—was not that the year 1912?

A. As a result of years of effort, the early ones of which were lean ones indeed——

Q. And that occurred very shortly after the "Journal" was taken away from the News Company, did it not?

A. This did not have anything to do with it.

Q. Did it not occur when this letter was written?

A. That did not have anything to do with it. This letter went out two years after we began to sell the "Journal" directly to the dealers.

MR. WELCH: That was not the question, Mr. Douglas.

By MR. DALY:

Q. Then, in speaking of these sales division expenses put in yesterday, what are those expenses comprised of?

A. Have you any particular year in mind?

Q. Well, take the last year that you testified about.

A. 1917?

Q. Yes.

A. I can give you some of the items—the major items.

Q. Give all the items you can that make up that list.

MR. WELCH: What year, Mr. Daly?

MR. DALY: 1917.

THE WITNESS: The item of wages, $212,784.99.

By MR. DALY:

Q. What is that?

A. The item of wages.

Q. Wages to whom?

A. Sales division employes. That was $212,784.99.

Q. That would include all employes in that division?

Q. The salaries of employes—not all. I have a separate item on roadmen. Those wages include the office employees, clerical help, etc., in our home office. The roadmen's item is $160,362.34; postage, $46,214.79. That item does not include postage for mailing the magazines themselves. Circularizing, $73,932.41. Prizes —I gave you that yesterday, I think.

MR. WELCH: Put that in.

THE WITNESS: Prizes, $56,964.94; sundries, $114,331.43.

By MR. DALY:

Q. What are sundries—do you know?

A. It would be supplies, equipment and furniture, for example.

Q. Did you put in yesterday the boys—convention expenses—is that part of the sales division?

A. That was one item included in these general classifications that I am giving you.

Q. Can you give that now for 1917?

A. For that year?

Q. Yes.

A. We had no district agents' conventions in that year. We had our roadmen together during that year.

Q. Would that sales division expenses include what you testified to about the reprints of first installments of these different papers?

A. That would all be in these figures.

Q. Would that be in sundries, or would you have a separate item?

A. That would be in circularizing.

Q. And posters for dealers—have you anything on that?

A. That would be in circularizing. I did not quite finish the list.

Q. Finish the list, then.

A. Then we had the company publicity item, $26,221.34; Boy Scout and Curtis League, $10,178.23. The rebate voucher plan, $69,706.91; branch offices $74,295.98; postage, freight, express and hauling charges on the magazines themselves, $599,873.25; and the copies given to the boys, as testified to yesterday, $53,342.10. That, as I also explained before, is based upon a nine-year average and calculation. That is not a posi-

tive figure for that year, because we did not have it separately for that year, but it is substantially correct. It is understated, if anything.

MR. SPIESS: Is that all for 1917?

A. That is all for that year. D you want another year?

By MR. DALY:

Q. No, I think not.

A. That foots up to the total I gave you yesterday.

Q. You may give 1915.

A. The total of $1,498,000 and some odd.

Q. You may give 1915.

A. 1915—that is the year ended June 30th. For that year the figures are: Wages, $215,490.70; roadmen, $139,096.81; postage—other than for mailing magazines themselves, I mean—$72,484.87; circularizing, $96,730.63; prizes, $52,746.29; sundries, $115,259.04; the rebate voucher plan, $73,488.56; branch offices, $85,-350,09; postage, freight, expressage and hauling charges on delivering magazines, $431,666.85; copies given to the boys, $53,342.10; totaling $1,335.656.02, a little less than 1917, but not as great as 1916.

Q. Now, under your contract, Mr. Douglas, with your representatives, you do not permit your exclusive agents to handle anything else except your magazines, do you?

MR. MILBURN: Is that in the district agency contract, Clause 13?

MR. DALY: Clause 13, yes.

MR. MILBURN: I object.

MR. DALY: Just strike that out.

By MR. DALY:

Q. Now, these boys that handle your magazines and no others, that is the arrangement under your plan, is it not? You do not permit that, do you?

MR. MILBURN: Mr. Daly, I object to that ques-

tion as governed by the contract. The contract provides they must apply for permission and the record shows permission is granted or withheld, in different instances. I object to the question, because the contract speaks for itself.

THE WITNESS: That is the situation. We reserve the right to grant or refuse, as such applications are made to us.

By MR. DALY:

Q. I want to clear this up. In the main, your boys, as you term them, would not handle other magazines, is that correct?

A. After our boys have been in the business long enough to have grown up, then they want to sometimes. That is the way these people are in this, you see. A lot of these people have come up just that way.

Q. You have permitted them to get in?

A. We have granted sanction in some cases and in others refused.

Q. But, in the main, your boys handle your publications; is not that correct?

MR. WELCH: What is the question?

MR. DALY: That your boys handle nothing but your publications?

MR. WELCH: You mean district agents?

MR. DALY: No; his boys I am talking about.

THE WITNESS: You are talking about the boys that sell at retail?

By MR. DALY:

Q. I am talking about the boys that sell your "Posts"—go on out in the street.

A. Serving the customers?

Q. These boys that serve customers.

A. Yes; sell only our magazines. Yes; 95 per cent. of them sell only our magazines.

Q. That is what I was trying to get, and you discourage them from selling any other magazines; is not that correct?

A. You could hardly put it that way. We have not encouraged it.

Q. (Handing witness) Now I show you Bulletin No. 265, issued by your company. This bulletin was sent out, was it not, by your company?

A. Yes.

Q. To whom did that bulletin go?

A. Roadmen.

MR. WELCH: Has that been sent out, did I understand?

THE WITNESS: To the roadmen.

By MR. DALY:

Q. Can you state about when that was sent out? Do you recollect? There don't seem to be any date on it.

MR. WELCH: No; that is what I want to find.

THE WITNESS: That was probably the spring of 1917.

MR. DALY: You have no objection to this, have you?

MR. WELCH: No.

MR. DALY: We offer this bulletin, marked No. 265.

EXAMINER MOORE: The bulletin will be received in evidence, without objection.

(The paper referred to was thereupon received in evidence and marked by the stenographer "Commission's Exhibit No. 194," and is as follows:)

COMMISSION'S EXHIBIT No. 194.

"THE CURTIS PUBLISHING COMPANY,
Circulation Department.
Sales Division

Bulletin No. 265.

Subject: Other Magazines Establishing Agencies with our District Agents.

It is desirable that you be informed of efforts

now being made by other magazines to establish agencies with our district agents. See Bulletin No. 249, No. 260 and letter therewith.

These other magazines are listed below under group numbers. By studying the groupings you can at once identify the specific magazines referred to in any future letter or telegram concerning Group I or Group II, etc.

Group I.

This includes Every Week, The Woman's Home Companion and The American Magazine.

These magazines offer a contract similar to our own. The wholesalers deposit bond money with the publisher but draw their copies from the nearest branch of The American News Company. The said contract forbids the wholesaler to sell copies to inside stores or stands, thus preventing his supplying any retailers other than boys and outside stands. The contract requires, as a condition of getting credit for unsold copies, that the wholesaler shall return to the News Company's Branch the whole beheaded copy, forwarding charges upon same to be paid by the wholesaler.

This publication has offered its contract to some of our district agents. As far as I know now not one of our agents has accepted it. It is rumored that this publication prefers to place the contract with wholesalers other than our district agents. Whether the rumor is true remains to be seen. Much of this publisher's correspondence with wholesalers seems to be dictated by Mr. Welker, formerly a Curtis roadman.

Directions: Notify us every time you find a district agent who is directly or indirectly wholesaling this group, with or without such a contract.

Any such district agent whom you may find,

tell in unmistakable terms that he may either continue as district agent for our publications with the accompanying privileges by discontinuing any arrangements to wholesale any one of this Group or that, if he continues wholesaling any one of this Group, directly or indirectly, we shall, if necessary, transfer our agency.

---

Bulletin No. 265. Date.
Subject: Other Magazines Establishing Agencies with our District Agents.
Received this date .....
Superintendent .....

---

It is important that you keep us fully in touch with any news or developments in your territory concerning this group's activities as affecting us.

Our desire also is that P. J. G. boys be not encouraged to sell Every Week. We should prefer to discontinue our present inducements to boys who do sell Every Week.

GROUP II

The Pictorial Review alone is here referred to.

This magazine was recently made non-returnable to The American News Company, and is now circularizing wholesalers or dealers offering to supply them independently of the News Company, with the return privileges. To date we have heard of no formal contract or cash bond required as a condition of getting a Pictorial agency.

This magazine's letters to a few of our district agents include statements which give appearance of misunderstanding of our policies. For example: Some of said letters have the effect of causing the recipient to infer that we are not

adverse to having our district agents make arrangements to wholesale The Pictorial Review. Of course such statements are misleading.

Other statements by the Circulating Director, or his agents, inconsistent with statements made to us, also appear to have been made. For example: Our district agent in City 'X' writes that Pictorial tells him that our district agent in City 'Y' has taken the Pictorial agency. But 'Y' district agent denies it and 'Y's' superintendent confirms the denial. Identically similar instances have occurred several times recently.

Recently this Magazine sent out a circular letter announcing its intention to go after boy business through wholesalers. Within a week or two afterwards there followed another circular letter disclaiming any intention of going after boy business.

Directions: Notify us every time you find a district agent who is directly or indirectly wholesaling the Pictorial Review, with or without a contract. Any such District Agent whom you may find, tell in unmistakable terms that he may either continue as district agent for our publications by discontinuing his arrangements with Pictorial Review or that, if he continues wholesaling Pictorial Review, directly or indirectly, we shall, if necessary, transfer our agency.

It is important that you keep fully in touch with any news or developments in your territory concerning Pictorial Review's activities that affect us.

Our desire also is that P. J. G. boys be not encouraged to sell Pictorial Review. We should prefer to discontinue our present inducements to boys who do sell Pictorial Review.

COMMENT UPON THE DIRECTIONS ABOVE GIVEN.

Occasionally a well meaning district agent urges, in good faith, often with show of reason, that his local service would be strengthened, if he had more periodicals to wholesale. If no more than his local problems are involved we could agree with him offhand, but more than one particular city's problem is involved.

We are disposed to concede to the individual interest of a district agent everything we can without sacrificing the mutual interests of the district agent and our company, but these non-Curtis offers to district agents involve elements prejudicial to the common interests of our Company and our district agents.

One fundamental fact stands out prominently. There is a limit to the number of periodicals seeking circulation among readers of the same class, which a district agent can handle without taking on the limitations of a branch of The American News Company. We have district agents because we need representatives free from such limitations and we compensate them accordingly. Our valued district agents represent us because they have heretofore been free from such limitations. This is axiomatic in the Sales Division.

One cannot admit the general principle set forth in the preceding paragraph and at the same time fairly contend that an exception should be made in a particular city. Indeed not! For the other publisher is sometimes quick to seize and employ ideas by which to cause unrest among other district agents by circulating rumors to the effect that those less loyal are increasing their profits, notwithstanding or in spite of Clause 13. See city 'Y' illustration above given.

The common interests of our company and of our district agents alike will be best served by the continuance of our present policy of 'going it alone,' without entangling alliances. We can't have one policy for Michigan, a different one for Missouri and still a different one for Ohio. It must be one policy and there must be unity of application of it.

Nor can a district agent soundly reason that he has no interest in a policy which seems to be chiefly in the interest of this company. Indeed he cannot! As to their magazine profits, the best hope of Curtis District Agents as a class lies in the maintenance of our policies with respect to independent distribution. There is nothing temporary or uncertain about our continued direct supplies to district agents in accordance with their contracts; and their interests and ours alike will be best served by the maintenance of the methods and the policies above mentioned. Our arrangements with them are made in view of that fact.

Our independent distribution has succeeded because our District Agents have been free from News Company limitation, and we must keep our district agents free from those same limitations if our independent distribution is to be successfully maintained.

GROUP III.

The Literary Digest alone is here listed.

No formal contract or cash bond requirement has yet been brought to our notice. Approaches by letter or otherwise have been made to a number of our district agents. Two district agents each in one telegram have asked our sanction that they arrange to wholesale both Pictorial Review and Literary Digest as if they had received both

offers at about the same time. The situation is somewhat obscure.

Directions: If you find a district agent who has taken a Literary Digest agency, send us the fullest possible particulars. We should particularly like to have you report to us any circumstances indicative of a community of interest between The Digest and The Pictorial Review with respect to wholesaling both through our District Agents. At this date we are without definite reason to believe that concerted action by the two publishers is being directed at our District Agents. But if you find evidence of such concert of action between them, notify us promptly.

GROUP IV.

This group includes Current History and the New York Times Mid-Week Pictorial.

Of late perhaps a dozen district agents in different parts of the country have received offers of wholesale agencies for these two publications. One district agent wired for our sanction that he wholesale both these two and Literary Digest and Pictorial Review. Apparently that District Agent had received similar offers from all four publishers, either at one time or within a day or two of each other.

Directions: If you find a District Agent who has taken a Current History or New York Times Mid-Week Pictorial agency, send us the fullest possible particulars. We should especially like to have you report to us any circumstances indicative of a community of interest between any two or more of Groups I, II, III and IV with respect to wholesaling through our district agents. At this date we are without definite reason to believe con-

certed action by two or more of them is being directed at our district agents. But if you find evidence of such concert of action, notify us promptly.

GROUP V.

Colliers' Weekly.

During the past year, upon request of twenty-five or thirty district agents, we interposed no objection to their taking agencies to wholesale Colliers to newsdealers only. This was in line with our disposition to waive to each district agent's individual interest everything that we could without sacrificing our mutual interests.

Recently our attention has been called to efforts inconsistent with the condition upon which we withheld objection, made or planned to induce P. J. G. boys to sell Collier's. Accordingly we mailed, on February 15th, to each district agent on the Collier's list, a letter similar to the one inclosed.

With respect said district agents:

Our intention is to continue them as district agents, only upon condition that they do not wholesale to boys; or, if subsequent developments require more stringent methods, to withdraw the sanction previously given.

Directions: Every time you find a district agent wholesaling Collier's notify us, sending full particulars. In case it be one who claims to have had our sanction, definitely ascertain whether or not he is wholesaling Collier's to boys; and if he is, give him unmistakably to understand that his continuance as our district agents with its accompanying concessions depends upon the discontinuance of his wholesaling Collier's to boys.

GROUP VI.

Hearst's Publications:

We know that a considerable number of our district agents are wholesaling Hearst's Magazines. Some of our agents were Hearst newspaper agents before they became our agents.

Directions: Ignore such Hearst arrangements altogether. And with respect to any magazines not named herein do likewise until further notice.

Dictated by Mr. M. E. Douglas.

E. T. TOBIN."

---

Attached to Bulletin 265.

(Copy)

"Dear Sir:

In ..... 19 .. at your request made according to Clause 13 of your contract with us, we sanctioned your taking a wholesale agency for Collier's Weekly, with the understanding that you would limit to newsdealers only, your deliveries of that periodical.

Later, similar sanction was given to three or four other district agents who made the same request.

Recently our attention has been called to efforts, inconsistent with the condition upon which we sanctioned the arrangement, made or planned to induce P-J-G boys to sell Collier's.

Are you Wholesaling Collier's to Boys?

A proper regard for our mutual interests now requires that we ascertain whether or not you are supplying Collier's to boys. We shall appreciate an early reply with full particulars.

This is a general letter to each District Agent

at whose request we sanctioned a Collier's arrangement like that made by you.

Very truly yours,
THE CURTIS PUBLISHING COMPANY.

.....
*District Manager.*

C # 1.
Dictated By
MED MLR."

By MR. DALY:

Q. Now, then, on page 2 of the Bulletin, I will read this statement: "Our desire also is that P. J. G. boys be not encouraged to sell 'Every Week.' We should prefer to discontinue our present inducements to boys who do sell 'Every Week.'" Is that about the attitude that you want to express here?

A. In a general way; yes, sir.

Q. And further on——

A. Understand that did not say we would not supply the boys. That refers to the special inducements.

Q. It says inducements.

A. Special Inducements.

Q. "Our desire also is that P. J. G. boys be not encouraged to sell 'Pictorial Review.' We should prefer to discontinue our present inducements to boys who do sell 'Pictorial Review.'"

A. That is special inducements.

Q. Now, I hand you another bulletin, No. 275, dated March 16, 1917, and ask you if that bulletin was sent out by your company, and by whom in connection with your concern?

A. Yes; this was sent out.

Q. To whom?

A. Our roadmen.

MR. DALY: We offer this bulletin.

EXAMINER MOORE: It will be received in evidence, without objection.

(The paper referred to was thereupon received in evidence, and marked by the stenographer "Commission's Exhibit No. 195," and is as follows):

COMMISSION'S EXHIBIT No. 195.

"THE CURTIS PUBLISHING COMPANY
Circulation Department.
Sales Division.

Bulletin No. 275 3/16/1917.
Subject:

CONCERNING ACTIVITIES OF OTHER MAGAZINES.

For Miss Boyle.

It appears that certain rumors are being circulated to the effect that many of our large city District Agents are already under contract to handle the Sale of Pictorial Review. The following cities are supposedly involved:

| | |
|---|---|
| Detroit | Michigan |
| Pittsburgh | Pennsylvania |
| Chicago | Illinois |
| Cleveland | Ohio |
| St. Louis | Missouri |
| Omaha | Nebraska |
| Kansas City | Missouri |
| Albany | New York |
| Portland | Maine |
| Tacoma | Washington |

But these District Agents tell us they have turned it down.

Since the beginning of February, when the representatives of Pictorial Review became most active, we have heard from less than five per cent

of the total number of our District Agents, requesting permission to assume the wholesale agency of this publication.

All district agents have been notified of our intention to hold them to a strict interpretation of Clause 13 of their contract, and the replies received indicate that our wholesalers, including the cities mentioned, will respect their agreements with us.

From information at hand, the present status of the activities of Groups I, II and III, which appear in Bulletin #265, and our attitude in respect to these publications are as follows:

GROUP I.

Every Week, The Woman's Home Companion and The American Magazine:

Not active among our agents. Our policy is—hands off.

GROUP II

The Pictorial Review:

Very active. Same policy as applied to Group I.

GROUP III

The Literary Digest:

Conditional sanction given for wholesaling to newsdealers only, provided agents sign no contract binding them for more than 30 days.

Whenever a District Agent requests permission to handle any of the publications included in the groups listed in Bulletin #265, refer him to the Home Office for further information.

E. T. TOBIN.

Bulletin No. 275 Date 3/16/17
Subject:

CONCERNING ACTIVITIES OF OTHER MAGAZINES.

Received this date
Superintendent."

THE WITNESS: This is penciled on here March 16, 1917, I have no reason to think that date is not correct.

By MR. DALY:

Q. (Handing witness.) I hand you Bulletin 289, dated 4/2/1917. Will you look at that, and I ask you if that was sent out by your company, and to whom?

A. Yes, this was sent out to our roadmen.

Q. Now, I want to ask you about this paragraph, as to whether it is correct. I will read two or three paragraphs:

"Some of these district agents have been 'doped' with the idea that many of the prominent magazines are ready to break away from the news company. We assure you, not because we want to accomplish a result, but because we know it to be a fact—that it is really not so.

You must remember (1) that a publisher naturally considers first his own personal interests as represented on his ledgers, and (2) that any independent distribution will not appeal to the publisher unless he can definitely see a larger profit as well as a greater output under his present system."

That is correct, is it?

A. We sent the letter.

Q. Well, is that a correct statement?

A. What do you mean by correct statement?

Q. Is that a true and correct statement? Look at it.

A. I do not see any fault to find with it. I think that is correct.

MR. DALY: We offer that.

EXAMINER MOORE: It will be received in evidence, without objection.

(The paper so referred to was thereupon received in evidence and marked by the stenographer "Commission's Exhibit No. 196," and is as follows:)

COMMISSION'S EXHIBIT No. 196.

"THE CURTIS PUBLISHING COMPANY
Circulation Department
Sales Division,

Bulletin No. 289 4/2/1917

Subject: SMOKE WITH BUT LITTLE REAL FIRE.

For Miss Boyle.

It would be injurious to us for you to permit any of your district agents to feel that we are disposed to play 'dog in the manger' in the matter of their wholesaling other periodicals. We are not so disposed. There are other publications the wholesaling of which we would not object to. But we prefer not to take the initiative by suggesting any of them to any district agent. It would appear as if we were acting in concert with other publishers—a thing we are not doing.

Our real position in regard to the whole matter is based on a knowledge of conditions with which district agents are not probably familiar and because we know that the situation as some of them see it, is largely smoke, which looks impressive but underneath which there is very little real fire.

Some of these district agents have been 'doped' with the idea that many of the prominent magazines are ready to break away from the news company. We assure you, not because we want to

accomplish a result but because we know it to be a fact—that it is really not so.

You must remember (1) that a publisher naturally considers first his own personal interests as represented on his ledgers, and (2) that any independent distribution will not appeal to the publisher unless he can definitely see a larger profit as well as a greater output under his present system.

There is a lot of difference between the statement or representation by an employe anxious to enlarge his position and the real attitude of the publisher himself; and in meeting the former, the district agent does not necessarily get the attitude of the publisher. The employee sees nothing but his immediate advantage; the publisher is not anxious to install a big organization and to spend a lot of money conducting it unless he can see material benefit and a definitely-assured permanent condition resulting from the change.

Just consider the difference in dollars and cents between the price a publisher receives from the News Company and the price paid by the wholesale agent to the publisher, and you will see that there is a pretty small margin to work on in the development of an independent organization.

Recently one of us talked with the publisher of one of the large women's publications which has been frequently quoted by us as desiring to enter into an independent distribution. I am going to quote just what he said because it is typical of the attitude of almost all of the other large publishers. He said:

'Our Mr. Blank was keen on the matter of an independent distribution. I couldn't see any objection to his feeling it out and told him to go ahead, of course, knowing in my own mind that I

wouldn't touch the thing finally unless I could see not only the start, but the finish. While I have not yet said so, I know that we won't touch it.

'Doubtless, in a limited number of large places, we would increase our circulation, but to handle it effectively and in a national way, we should have to put in an elaborate promotive and shipping organization, and the saving of the news companies' profit reflected by what they now pay us and what the individual dealer and the agent would pay us, wouldn't commence to cover that expense. Moreover, where we should lose out on circulation would be at places outside of the big cities. I know that the news companies would, if we broke away from them, handle only on a non-returnable basis. They wouldn't try to sell at all to new news dealers who are starting every day, and in every way they would avoid pushing us at all. The result would as a whole would be a smaller aggregate with much less profit than now.

'Conditions may not be ideal, but the other scheme would be "out of the frying pan into the fire," and I shall "let well enough alone." It's a beautiful theory, but unless a concern has got a tremendous circulation and is warranted in spending, as you have, hundreds of thousands of dollars in developing it in every little place in the country, it's a dream.

'As for co-operate publishers' movement, I wouldn't touch it and neither would anybody who has any sense. Inside of two months they would be fighting like the Kilkenny cats and the result would be the same as it was with the Publishers' Clearing House several years ago when the publishers tried to cut out the subscription agencies and have only one agency under their control. And you know what a flash in the pan that was.'

A. Yes, sir.

Q. Out of these bonuses and prizes, do you every year get compensation from the Curtis Company, over and above what you get out of selling the papers?

A. I got a check once from them for $200 and $50.

Q. How much do you get a year? Can you make any estimate of that? How much have you got altogether?

A. I must have got about five or six hundred dollars from them.

Q. All told?

A. All told, yes, sir.

Q. You referred to a letter which you received from the Pictorial Review Company, and I now show you a letter, being Respondent's Exhibit No. 5, and I ask you if the letter you received was similar to that, if you can remember?

A. Yes, sir; something like this.

Q. And that letter read, "We are now ready to supply you directly with such copies of 'Pictorial Review' as you can sell through boys," did it not?

A. Yes, sir.

Q. Have any of those boys gotten a position, do you know, in such instances?

A. Yes, sir.

Q. In Rochester?

A. Why, I have got—there is one boy sold the Curtis magazines for years—almost seven or eight years. I got him a position with the Taylor Instrument Company. Then, one boy in the Eastman Kodak Company, and I got several other boys in banks and other places. One of my boys is the manager of a big motor company in Boston that sold "Posts" for me, and another one of my boys has got charge—editor of the Motor Cycle Publishing Company, in Boston, that sold papers for me, and they all turn out good.

Q. Did the "Pictorial Review" people do anything about asking for this letter back at any time?

A. I got several letters from them, wanting something back—I don't know what it was.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. WALSH:

Q. What is your name?

A. Isaac B. Lazarus.

Q. You live in Rochester?

A. Yes, sir.

Q. How large a town is Rochester?

A. About two hundred and forty or two hundred and fifty thousand.

Q. Were you born in Rochester?

A. No, sir.

Q. Where?

A. I was born in a little town in Russia. I came over here when I was seven years old.

Q. Did you go to school at Rochester?

A. I went to school two weeks.

Q. Is that all you ever went to school?

A. Yes, sir.

Q. How long have you lived in Rochester?

A. Since I was seven years old.

Q. How old are you now?

A. Thirty-eight.

Q. What has been your means of making a living, Mr. Lazarus?

A. I began selling newspapers.

Q. Where, in Rochester?

A. In Rochester, and then I got charge of the "Rochester Herald," then the "Post-Express" of Rochester.

Q. You took charge of the "Rochester Herald?" You were not the publisher of the paper?

A. No, I sold them to boys and different ways. Then I got the "Post-Express" of Rochester. I sold them for about ten years. Then I opened up a place in the Powers Building, one of the biggest buildings in Rochester, a small place.

Q. What kind of a place is that?

A. Magazines and papers and different things, but I still had this agency for the Rochester papers then.

Q. How did you dispose of the Rochester papers?

A. Why, I sold them to boys.

Q. How long have you been selling to boys?

A. Oh, I must have been selling through boys—must be over twenty years.

Q. When did you start handling the Curtis publications?

A. I think I have been with them about 13 years.

Q. So that this handling through boys was not a new thing to you at all when you started in with the Curtis people?

A. I have been doing it all the time.

Q. As a matter of fact, you taught the Curtis people how to handle papers through boys? You showed them how, did you not, when they came up there? In fact, you were one of the pioneers of handling the papers through boys; is not that true?

A. Yes, sir; newsboys.

Q. Are you a married man?

A. No, sir.

Q. You are a single man?

A. Yes, sir.

Q. Do you belong to any commercial organizations in Rochester?

A. Yes, sir.

Q. What?

A. Masonic.

Q. No; I am not asking you anything about the lodges you belong to, but do you belong to any com-

mercial organizations up there—merchants' organizations?

A. No.

Q. You don't claim to be a scholar?

A. A scholar?

Q. Yes; you don't claim to be a scholar? You are not learned in books?

A. No, sir.

Q. You write with a great deal of difficulty, don't you?

A. Yes, sir.

Q. And you have now on your staff and have for some time had something over 200 boys?

A. Yes, sir.

Q. You don't have any trouble about getting boys?

A. No, sir; I haven't got any trouble keeping them either.

Q. They find it very profitable business?

A. Yes.

Q. And you are always besieged with application

A. Yes, sir.

Q. You can get more boys than you want?

A. Yes, sir.

Q. But you have high-class boys?

A. Yes.

Q. You say you have sons of doctors, lawyers and business men?

A. Yes, sir.

Q. It is a kind of a silk-stocking organization, is it not? Does it make any difference to you if a boy is a good boy, if he is the son of a laborer?

A. I treat them all alike.

Q. Anybody's boy, as long as he is a good boy and hustles, you take him on?

A. That is the idea.

Q. Before you took the Curtis publications on you

taught these boys how to sell the publications and hustle?

A. I did not teach these boys. I taught boys already in business now.

Q. Before you got the Curtis boys, the boys who sold papers for you—you taught them how to sell papers?

A. I offered different prizes, and every week put up a five-dollar gold piece to the boy who sold the most.

Q. You were doing that sort of thing before the Curtis people were, were you not—is not that true?

A. After the Curtis people came in, they had different ways and better ways.

Q. It was all along the same system—you were offering them prizes to sell papers and to hustle—is not that true?

A. If I put up a five-dollar gold piece to the boy that sells the most papers——

Q. That was before the Curtis people came there?

A. Yes, sir.

Q. But the Curtis people had more schemes than you had for encouraging the boys to sell papers?

A. Why, schemes——

Q. Yes, schemes.

A. I do not see any schemes, except getting new boys and selling more "Posts" and getting gentlemanly boys.

Q. I do not mean dishonest schemes. I mean honest schemes. But they had more plans to encourage boys than you knew yourself?

A. They did not tell me—I done it myself.

Q. You did it the same way before?

A. Certainly.

Q. And before you took on the Curtis publications you encouraged these boys to be good boys and study

hard in school, and all that sort of thing, did you not?

A. Those boys are all street boys.

Q. They are all street boys?

A. Yes, sir.

Q. And you taught the street boys to sell Curtis publications, did you not?

A. To sell Curtis publications; yes, sir.

Q. Did you ever sell Curtis magazines yourself, on the street?

A. No, sir.

Q. You never sold them yourself?

A. No, sir; I go around and see the boys' parents once in a while, and they come and see me, a lot of them. I am right in the heart of the city. I come in and talk with the parents. They like the boys and they want to see their boys out with the Curtis magazines. They like them, and they think it is like a schooling for them.

Q. That is, the business they do in selling the "Post" and "Ladies' Home Journal" and making the returns——

A. There is not many returns—they sell them.

Q. But when they sell them they have to make returns to you?

A. They pay me for them.

Q. Before they sell them?

A. Yes, sir; a few might charge them, but they always pay for them when they sell them.

Q. Has that always been the system?

A. Yes, sir.

Q. What do you talk over with the parents?

A. How the boys are doing the work, and everything else that may come up, and they like it. Once in a while I get the boys together and take them to a picture show and give them a good time.

Q. You know Mr. Corb, who travels for the "Pictorial Review"?

A. I know several of them—two of them. I do not know their names.

MR. MILBURN: You do not know two Corbs—you mean two "Pictorial Review" men.

THE WITNESS: Yes, sir.

By MR. WALSH:

Q. How has the "Pictorial Review" been distributed at Rochester?

A. Mr. Manson distributes them.

Q. Who is he?

A. He is in charge of the magazines and papers there.

Q. Did they formerly distribute there through the American News Service?

A. Yes, sir.

Q. When did they quit that—do you know?

A. They quit that—in fact they are not quit yet. They are still selling them through that company.

Q. Is it not a fact, Mr. Lazarus, that you asked Mr. Corb, the representative of the "Pictorial Review," for the agency of the "Pictorial Review"—asked him?

A. Never asked him for it.

Q. You are sure of that?

A. Yes, sir.

Q. Some time this year did you change your form of contract with the Curtis Publishing Company?

A. Yes, sir.

Q. In what way have you changed it?

A. Well, they simply gave me a new contract; that is all.

Q. How is the new contract different from the old contract?

A. I have to pay for the magazines just as I sell them. Before I had to pay two weeks before I got them.

Q. That is all the difference, as far as you know?

MR. WELCH: The contract speaks for itself, Mr. Walsh.

THE WITNESS: You have to deposit more money.

By MR. WALSH:

Q. How much more, under the new than under the old contract?

A. Before it was $400 under the old one, and I have to deposit $1200 now.

Q. How many "Posts" do you circulate?

A. Oh, I sell about 7000.

Q. And how many "Ladies' Home Journals"?

A. Forty-five hundred.

Q. And what other papers do you handle—you handle nothing else in a wholesale way?

A. Nothing except the Curtis magazines.

Q. What sort of magazines do you handle in your shop?

A. I sell them all—retail them all—the biggest line in New York State.

Q. The biggest line in New York State?

A. Yes, sir.

Q. How big a store have you?

A. A nice, big store. It is the Arcade.

Q. How do you distribute the Curtis publications to your sub-dealers?

A. I have an office for them. A good many of the boys come at my place of business, say, Wednesday afternoon, and they are all done up—the bundles are there, and they take them all over to the paper offices and leave them there until the paper boys call for them the next morning when they get the morning papers.

Q. That is on Thursday?

A. Thursday morning, and then the boys come at the office Thursday afternoon for the papers, and then

my place of business is about a block from the office, and some boys come there. I have my own delivery of "Posts" to the stores, and then I have a way—the Flower City delivery—they have twenty-four automobiles and wagons and they deliver all over the city, and if I have a boy living away in the outskirts, I have the bundle wrapped in the afternoon, and the Flower City delivery takes it out. My wagons do not reach the outskirts. Then, certain stores—there are car lines there, and I send them out on the car lines once in a while to certain stores.

Q. Why don't you handle other magazines wholesale?

A. The Curtis magazines keep me busy now.

Q. It takes all of your time?

A. Yes, sir.

Q. Who runs your store?

A. I run it—my brother and sisters. I have another young fellow there.

Q. How many people are there in our store?

A. Five.

Q. How much time do you devote to your business?

A. All the time.

Q. You say you have an office that is not at your store?

A. Yes, sir.

Q. What do you do there?

A. I keep my stock there, and the boys come there for the magazines and the "Posts" on Thursday. All the "Posts" come there and the bundles are up there, and the boys come there Thursday for the magazines. A lot of them come that would not come to the store. Some come to the store and some to the office. I am always at the office there Thursday for the boys.

Q. After this Thursday work is done how much time do you devote to the store work?

A. Well, I am in the store for the Curtis people

at the same time. I am devoting my time to the Curtis magazines all the time. The boys come in to see me all the time.

Q. Do you have any other business besides this business?

A. Well, cigar store, candy and magazines. I have boys come there to see me every day.

Q. That is, boys who want jobs?

A. Different boys about prizes, and about master salesmen and all kinds of questions, and how to decide them in different ways. They keep me busy all the time.

Q. You are quite a fellow to get jobs for boys, are you not?

A. Yes.

Q. Did you ever get a job for a boy who was not a Curtis boy?

A. Yes; I would, if I knew the boy.

Q. It does not make any difference to you what the boy is engaged in and who he is, if he is good boy —you try to get him a job? You are a man with a good heart?

A. I would certainly do it, if I could help him and knew him.

Q. You do not make any investigation of the boy's school work—the work done in school by the boys?

A. Sure I do.

Q. They report to you?

A. Sure I make investigations.

Q. How?

A. I know what schools they go to and who they are.

Q. Do you keep their standings?

A. I know what grades they are in and what class they are in.

Q. Sure. But you do not get their monthy reports and standings in school?

A. I do not get the monthly reports.

Q. You do not make any inquiries of the teachers as to how smart the boy is?

A. No; I know how smart a boy is when I do business with him. For instance, I had two boys come in Thursday. I gave the two boys ten copies apiece to start in. Both of those boys went outside at the same time, and before ten minutes' time, one boy came in and wanted more copies.

Q. That is your judgment of how smart a boy is—how quickly he can sell copies?

A. This one boy sold eighty copies and the other boy came back and said, "I quit,"

Q. That is the way you judge a boy?

A. No; it is not that, but they have to tell me the standing they have in school.

Q. What grade they are in?

A. What grade they are in and how they act.

Q. You ask how they get along in school?

A. I see their cards. They have cards.

Q. What kind of cards?

A. Each boy has a card, what grade he is in, and how he is getting along in school.

Q. Where do they come from?

A. From the teachers.

Q. Is that a Curtis card?

A. No, sir; it is from the teacher.

Q. Do you ask every boy to do that?

A. No, sir; but most of the boys.

Q. Is it a general rule—do you get a card from the boys in school with their standing on it, as a general rule?

A. What do you mean?

Q. I understand the boys have a card with their standing in school written on it?

A. Yes, sir.

Q. You look at that card?

A. Certainly, I look at the card.

Q. How many cards have you seen this year?

A. Quite a few.

Q. How many?

A. Several—I do not know how many.

Q. Not of all the boys?

A. No, sir; not all the boys.

Q. How do you come to look at those cards?

A. I ask them for them, and ask to see them. I have a master salesman, Robert Horton, and another master salesman named Harry Levin, and another one named Elkhart. I know how they are in school. I ask their parents and they tell me how they are. I go down to the parents' houses. Several times the road man has come to Rochester and I went with him to different places and different houses to see the people and ask what they thought of it, and they were all satisfied with the work, and so am I satisfied with the work.

Q. The purpose of all this is to encourage the sale of the Curtis magazines?

A. And to make men of the boys.

Q. If a boy does not keep up his rating in school, what do you do?

A. I make him keep up his rating in selling "Posts."

Q. You make him keep up his rating in selling "Posts"?

A. Yes, sir.

Q. You never fire any boy because he never kept up his rating in school?

A. No, sir; I do not have to fire them.

Q. Did the Crowell Publishing Company ever ask you to take on the sale of their publications?

A. They sent several letters about getting copies direct, but I told them I did not have time.

Q. And you did not have time?

A. No, sir.

MR. WALSH: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. Who is the assistant superintendent of schools?

A. Mr. Fletcher.

Q. Do you know him pretty well?

A. Yes, sir; I know him well.

Q. Do you know Mr. C. C. Robinson, who is the boys' work specialist?

A. Yes, sir.

Q. You have conferred with him, have you not?

A. Yes, sir.

Q. There are not very many people in Rochester who do not know you?

A. They all know me pretty well; yes, sir.

MR. MILBURN: That is all.

---

MRS. A. Y. LANE, was called as a witness on behalf of the respondent, and being first duly sworn, by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Mrs. Lane, you live at Wallingford, Conn.?

A. Yes, sir.

Q. That is your home?

A. Yes, sir.

Q. You are married?

A. Yes, sir.

Q. And you have two sons?

A. Yes, sir.

Q. What is the name of your eldest son?

A. Clifton.

Q. Clifton is about fourteen years old?

A. Yes, sir.

Q. And your other boy is about seven years old?

A. Yes, sir.

Q. Was Clifton ever a boy selling "The Saturday Evening Posts"?

A. Yes, sir; he sold them for the last five years.

Q. He sold them for the last five years?

A. Yes, sir.

Q. Was Clifton afterwards made a district agent of the Curtis Publishing Company?

A. Yes, sir.

Q. Will you just ask Clifton to stand up?

(A boy thereupon arose.)

By Mr. Welch:

Q. That is your boy standing up, that you are speaking about?

A. Yes, sir.

Q. He is the district agent of the Curtis Publishing Company?

A. Yes, sir.

Q. Did you sign the contract with the Curtis Publishing Company on behalf of Clifton?

A. Yes, sir.

Q. When was he made agent of the Curtis Publishing Company?

A. Last October—I do not know the date.

Q. October, 1917?

A. Yes, sir.

Q. And he, since that time, has been the agent, and is now?

A. Yes, sir.

Q. Now, does your other boy sell "Posts"?

A. Yes, sir; he took Clifton's route.

Q. He took Clifton's route?

A. Yes, sir; when he took the agency he handed down the customers to his brother.

Q. How many boys has Clifton working under him?

A. Eight.

Q. Did you assist him in making out his reports?

A. Either I or his father.

Q. Either you or his father?

A. Yes, sir.

Q. You or his father keep a general supervision, I suppose, over his affairs there?

A. Yes, sir.

Q. Were you ever asked to permit Clifton to sell "Every Week"?

A. Yes, sir; I had a call from one of the agents.

Q. When was that call?

A. It was in the first part of December. I do not remember the date.

Q. The first part of December, 1917?

A. Yes, sir.

Q. And was Clifton present at the time you talked to this representative?

A. Yes, sir.

Q. Did he call at your house?

A. Yes, sir.

Q. What time of the day was it?

A. About noon—between 12 and 1.

Q. What did he say when he came in?

A. He asked at the door if the Curtis Publishing Company agent lived there, and I said "Yes."

MR. WALSH: Let us identify this man and find out who he is.

By MR. WELCH:

Q. What did you say?

A. I told him "Yes."

Q. What did he say then?

A. He asked if he could see him, and I said "Yes" and asked him in.

Q. Did Clifton then come in?

A. Yes, sir.

Q. Did he say anything to Clifton about the number of boys that he had?

A. Yes. He asked him the number of boys and how many papers he was selling.

Q. Did he ask the number of papers that he, Clifton, was selling?

A. Yes, sir.

Q. What did he say after that?

A. After he had asked me all about it, he told me that he was — he asked if he would take the agency for his publication.

Q. Of "Every Week"?

A. Yes, sir; he mentioned "Every Week" particularly.

Q. Prior to that statement, you did not know who he was?

A. No, sir.

Q. Did he say how he learned that Clifton was the district agent for the Curtis Publishing Company?

A. Yes, sir; he said he inquired from one of the stores, and they recommended him there.

Q. Do you know who Mr. Kelly is?

A. Yes, sir.

Q. Who is he?

A. He is our supervising——

Q. Represents the Curtis Publishing Company?

A. Yes, sir.

Q. Did you mention this to Mr. Kelly?

A. I told him I did not think Clifton could take anything else on, and on the other hand I did not think the Curtis Publishing Company would want him to.

Q. What did he say then?

A. He said he did not think it would make any difference to them. Clifton said he remembered Mr. Kelly said he had no business to take but one agency.

Q. And then did this representative of "Every Week" ask to see the contract with the Curtis Publishing Company?

A. Yes, sir; he said, "Let me see the contract." He said, "I do not think there is anything in it having anything to do with his taking another paper."

Q. What did you say to him then?

A. I did not have the time to look it up, and could not talk further, because I did not think he could take it on account of his school work also.

Q. Did he leave then?

A. Yes, sir; and he came back in the evening.

Q. Whom did he see in the evening?

A. His father was there.

Q. And you?

A. Yes, sir.

Q. And was Clifton present?

A. Yes, sir.

Q. What happened in the evening—did he talk to Clifton's father about it?

A. Yes, sir; and his father said he did not think he was old enough and strong enough to take on any more work, and, on the other hand, he did not think that he ought to on account of his contract with the Curtis Publishing Company.

Q. Did he ask for any of Clifton's boys' names?

A. Yes, sir; he asked if there was a good lively boy to recommend?

Q. Did you give him any name?

A. Yes, sir, I gave him Joseph Lee's name.

Q. What happened then?

A. He took "Every Week" and stopped taking "Posts" from us.

Q. After taking "Every Week" he ceased selling for Clifton?

A. Yes, sir.

Q. Does Joseph Lee now sell Curtis Publishing Company's publications—does he now sell the "Every Week" publication?

A. Yes, sir.

Q. Where does he get them?

A. From the American News or the Connecticut News—I do not know which.

MR. MILBURN: Mr. Walsh, you do not want any witnesses who have been called any more?

MR. WALSH: No.

By MR. WELCH:

Q. Since Joseph Lee left Clifton as a boy, and commenced selling "Every Week," have any of the other boys left Clifton and gone to Joseph Lee?

A. Yes, sir; one went over last week.

Q. You know the parents of these boys that Clifton has selling "Posts" under him?

A. Most of them; yes, sir. They all live around there—most of them.

CROSS-EXAMINATION.

By MR. WALSH:

Q. How many boys has Clifton?

A. Eight.

Q. How large is that town?

A. Fifteen thousand, I think.

Q. Does Clifton coach these other boys?

A. Yes; in a way, but, you see, he took the agency from the boy who had them all coached. They were all old boys when he took them. They were pretty well coached up in the business when he took them.

Q. Most of the boys know how to sell these "Posts" pretty well?

A. I think the other agent was a good, live agent, and he helped them along considerably.

Q. When Joseph Lee took on "Every Week," did he come and say he was going to quit taking the "Posts"?

A. Well, he had a little personal grievance, and on that account left.

Q. That is, he had a personal grievance with Clifton?

A. Yes, sir.

Q. And Clifton would not let him have the "Posts"?

A. Clifton was perfectly willing to let him have the "Posts," but it was his own fault.

Q. Are there any retail dealers in town?

A. Yes, sir.

Q. Who?

A. One other that I know of—the Kennedy News Company.

Q. Does Clifton supply it?

A. Yes, sir.

Q. How many papers does Clifton circulate, Mrs. Lane?

A. Two hundred "Posts," 90 "Country Gentleman" and 180 "Journals."

MR. WALSH: That is all.

---

JEROME J. VANDEWATER was called as a witness on behalf of the respondent, and, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Where do you live, Mr. Vandewater?

A. Buffalo, New York.

Q. What is your business there?

A. District agent for the Curtis Publishing Company, magazines, "Saturday Evening Post" and Buffalo newspapers.

Q. You are district agent for the Curtis Company?

A. Yes, sir.

Q. And are under a Curtis contract?

A. Yes, sir.

Q. Do you wholesale any magazines other than the Curtis magazines?

A. No, sir; I retail only in my store.

Q. You handle the Curtis magazines at wholesale?

A. Yes, sir.

Q. And have branch offices throughout Buffalo?

A. Sixteen.

Q. And as I understand, you distribute these magazines to the dealers?

A. Yes, sir.

Q. And also through boys?

A. Yes, sir.

Q. How many boys have you?

A. About 225.

Q. What do they sell?

A. They average various amounts.

Q. I do not mean in amount, but what do they sell?

A. Curtis publications altogether.

Q. Have they their own customers and routes to which they deliver?

A. Yes, sir.

Q. How do you get these boys?

A. We work in various schools, and through advertisements put in the newspapers by the Curtis Publishing Company, and I interview the boys at their homes and call on them and try to persuade them to sell Curtis Publishing Company publications, and teach them to be master salesmen.

Q. Does the Curtis Publishing Company aid you in this work of getting the boys?

A. Yes, sir.

Q. Who is the roadman in your district?

A. Mr. Werner.

Q. Have you League members?

A. Yes, sir.

Q. Boys who have been advanced in rank, through selling papers?

A. Yes, sir.

Q. In the course of this business, have you earned outside sums by way of bonuses and prizes from the Curtis Publishing Company?

A. Yes, sir; I won $750 a year ago.

Q. In one year?

A. Yes, sir.

Q. How long have you held the agency?

A. Before I got the direct agency I used to handle it through the agency of the man who held it before me.

Q. How long have you handled it directly?

A. About three years.

Q. Is this matter of bonuses and prizes a material factor in the business?

A. Yes, sir.

Q. It amounts to a material sum each year?

A. Yes, sir.

Q. And one year it amounted to $750. I suppose that was the biggest year?

A. That was a contest throughout the country, as I understand.

Q. Are there any other magazine wholesalers in Buffalo?

A. Yes, sir; the Bachman News Company.

Q. What do they handle?

A. All publications, I understand.

Q. Is that an independent local concern?

A. Yes, sir; and then there is the American News Company—called the Buffalo News Company in Buffalo—it is run by the American News Company.

Q. It is a branch of the American News Company?

A. Yes, sir; they also handle the "Posts."

MR. SPIESS: You say the Bachman is a branch of the American News Company?

A. No, the Buffalo News Company we call them, but it is a branch of the American News Company.

By Mr. Milburn:

Q. Who runs the Bachman News Company?

A. Why, there are two or three. The man that used to run it that I knew personally was named Charlie McCoy. He is dead now.

Q. The Bachman News Company has nothing to do with the American News Company?

A. No, sir.

Q. These boys—you report their sales every week to the home office?

A. Yes, sir.

Q. Have you recently taken a new contract?

A. Yes, sir.

Mr. Milburn: I think that is all.

Cross-Examination.

By Mr. Walsh:

Q. Why did you change the form of contract?

A. Why, it is a matter of form with the home office. They simply asked me to.

Q. That is the only reason?

A. Yes, sir.

Q. Does it make any difference in the way you transact your business?

A. I used to pay two weeks in advance, and now I pay the following day. I get my copies Mondays and Tuesdays and I get ready for delivering for the day of the sales, which is supposed to be Thursday, and I make my remittances then.

Q. Do you make your remittances on that day?

A. I try to. I sometimes run a day over, until Friday.

Q. But as far as the practical working of the thing is concerned, it makes no difference?

A. It makes no difference?

Q. Yes; you remit just the same?

A. I have to remit at a specified time. I am supposed to, but you will have drawbacks here and there in the business. All men do.

Q. When do you make an account of your remittances and returns?

A. Why, on the 20th I take up the returns of the 13th.

Q. You get credit on the 20th for the issues of the 13th?

A. Yes, sir.

Q. You make investigations into the home surroundings of these boys?

A. Yes, sir; in each district. I have districts throughout the city that I call meetings to, and encourage the boys to sell our publications. I give special attention to some of the boys in different districts where I think the publications will sell.

Q. What you are particularly desirous of securing is a class of boys that will make apt salesmen?

A. I take on anyone who looks like he will be done good by the work, in growing up to be a man.

Q. Of course, if you had to employ boys to do work in any other work it would be necessary for you to go through very largely the same course in handling the boys?

A. I do not know that that is true, especially, but in this particular line they have more opportunities.

Q. It is rather a delicate business, in hiring people's boys for work; that is, you have to get in personal contact with the parents and the boys and ascertain whether or not this work is agreeable to the parents, do you not?

A. Yes.

Q. That is true, is it not?

A. Yes, sir.

Q. That is, you would not want to hire a boy to do work if the parents objected to it?

A. If the boy saw fit and it did not interfere with the work, let the boy make as much as he can. That is up to his judgment.

Q. It would not make any difference to you what his parents thought of it?

A. No; I would simply make an effort not to overwork the boy or see that it did not interfere with his school studies, because if there was any boy overtasked in our work, and in his school work, I would not employ him.

Q. That is just the same as if a boy was selling anything else—for merchants, for instance—if the boy would devote more time to it than he ought to, so that it would interfere with his work, the parents would probably get in trouble with the merchant, would they not?

A. I do not know.

Q. You do not know whether that is true or not?

A. No; I do not.

Q. Of course, a boy that goes into any line of trade or any line of work must be coached and educated—that is true, is it not?

A. Yes, and that is what he goes to school for, too, to be taught.

Q. What other publications do you handle other than the Curtis publications?

A. At my store I retail almost any one that is returnable, "Hearst's," "Red Book," "Blue Book," "Pictorial Review," and most all of them. I buy from the American News Company.

Q. That is the only business that you run?

A. Outside of the newspapers wholesaled in my district, which covered a radius of probably a couple of miles——

Q. This Curtis business is an incident with your other business?

A. Yes, sir.

Q. And you could not, of course, make a living out of the Curtis publications alone—you would have to have some other business?

A. I practically do that now, in a way. I have an office at 29 Franklin Street, which is about four miles from my home, where I have this store, and I have a car, and I stay at the store there until about 9 o'clock in the morning to take care of the business in the rush hours, and I have a girl working in the store and my wife and a son of about 13 or 14 years.

Q. What is the larger business—your retail business or this Curtiss business?

A. Oh, I think my store is.

Q. That is, the retail business is the larger business?

A. Yes, sir.

Q. How many "Posts" do you sell?

A. Nine thousand three hundred and ten.

Q. Nine thousand three hundred and ten?

A. Don't sell—that is my drawing.

Q. You have some returns?

A. I have some returns.

Q. What do your returns average?

A. From 6 to 8 per cent.

Q. How many "Journals" do you sell?

A. Six thousand I draw.

Q. How many returns do you average?

A. Why, I have from 400 to 600.

Q. How many "Country Gentlemen" do you sell?

A. Thirteen hundred.

Q. How many returns do you average?

A. I have about 4 or 5 per cent. of those.

Q. Under the new arrangement, do you have to put up a larger cash bond?

A. Yes.

Q. How much cash bond did you give under the old system?

A. Five hundred dollars.

Q. How much do you give under the new?

A. A total of $1500, a thousand dollars extra.

Q. Where is that money deposited?

A. The Curtis Publishing Company.

Q. Do you get interest on it?

A. Yes, sir.

Q. At what rate?

A. Five per cent.

By Mr. Milburn:

Q. Your Curtis business is a self-supporting business, is it not?

A. Yes, sir.

Q. You are not in it just for experience?

A. No.

Q. Do you claim it is part of your duties to regulate the relationship of the parents to their own sons?

A. They take an interest in it to have their boys go through this, as a sort of an education to the boys. A boy goes through these different districts and office buildings and he becomes acquainted with different business men. I have different office people say to my boys, "I would like you to work for me." They would say, "No; I am going to school. When I get through selling Curtis publications, I am taking up a certain study at school, like mechanical engineering, or something of that sort." These tenants in the office buildings would like to employ our boys, because through the training that we give them they become smart and clever little fellows.

Q. And you know that the Curtis boys graduate and become efficient?

A. We have the endorsement of twenty-five dif-

ferent firms in the city of Buffalo that will employ our kind of boys—different banks and different business houses. We called on them and explained our plan to them, and they thought it was very good of us to put it through.

By Mr. Walsh:

Q. You do not know of any reason why any other concern that would offer that same system should be kept out of the field?

A. Well, I do not, if they go at it in the same line.

Mr. Walsh: That is all.

By Mr. Milburn:

Q. Do you know any particular reason why any other fellow in Buffalo should come into your store and take your business? You know there is a reason?

A. You bet I do. If a man is running a store and selling an article and knows he cannot sell it, I ain't going to put it in there and let him sell it.

By Mr. Walsh:

Q. Is any one trying to do that?

A. No.

(Witness excused.)

---

Clarence A. Schnee, called as a witness in behalf of the respondent, being duly sworn, testified as follows:

Direct Examination.

By Mr. Milburn:

Q. Where do you live?

A. Philadelphia.

Q. Whereabouts?

A. At the present time I live at 904 South Six-

tieth Street. I moved last week from 6152 Haverford Avenue.

Q. Who is the Curtis district agent in that district, if you know, from which you moved?

A. Mr. Loveland.

Q. Who is the district agent?

A. That is the only representative that I knew of, outside of Mr. Klank there.

Q. Is not your son district agent in that district?

A. I beg your pardon. I thought you meant the Curtis representative. My son handles the publications.

Q. How old is he?

A. District agent.

Q. How old is he?

A. At the present time he is seventeen years old.

Q. Did you sign the contract on his behalf?

A. Yes.

Q. As he has gone along with the work, you have helped him with the work and are familiar with the details?

A. Yes.

Q. What is your business?

A. I am credit manager for the Atlantic Refining Company.

Q. Was your boy, before he became a district agent in this district—did he sell the "Post"?

A. Yes.

Q. For how long had he done that?

A. Possibly three months.

By Mr. Spiess:

Q. He was selling the "Post" three months before he became district agent?

By Mr. Milburn:

Q. He was a "Post" boy?

A. Yes.

Q. How many boys has he under him?

A. He has between 75 and 85 boys.

Q. How do they get the magazines?

A. They come at the house for them—at the residence where I live.

Q. Mrs. Schnee is there?

A. Mrs. Schnee or one of the daughters or the sons, and many a time I wait on them myself.

Q. You know these boys personally?

A. I know practically all of them personally.

Q. Know their parents?

A. Quite a few of them.

Q. Does you son wholesale any magazines other than the Curtis magazines now?

A. No, sir.

Q. Do these 75 boys sell only Curtis magazines?

A. Only Curtis's, as far as I know.

Q. Have they their customers to whom they take them around?

A. They have regular customers.

Q. Where have you seen their parents? Have they come to your house?

A. I believe that I have seen personally 35 per cent. of them—that is, on the older boys.

Q. Is that a fairly permanent force of the seventy-five boys?

A. About—well, I should say 40 to 50 per cent. of them are boys that have sold for a year or more, and, of course, the others change from time to time, on account of a moving spirit, particularly in a large city.

Q. Some of these boys get other boys?

A. They bring other boys in. In the first place, when we started handling the "Post," we had about —I presume—twenty boys turned over to us from the other agency, and my son was about fourteen years of age then, and he always wanted to do something, and

he came to me and he says: "Father," he says, "there has been a Curtis man around here and he wants me to take the district agency." I says, "How many do you sell at the present time?" He says, "About 250 copies of 'Post' and practically that many 'Journals,' and I think there was something like 40 'Country Gentlemen.'" I says, "What is the profit?" Well, he told me. I says, "Well, son, that is not enough; the bother is too much. Of course," I says, "now, there is only one condition that we will take over this 'Post' business, that you will boost it up to at least 1000 copies of 'Posts.'"

Q. Well, never mind that. I do not think that is quite material in the record. You advised with him and helped him along in his business, and he has worked up a good business out of it, has he?

A. He has increased the business from at least 500 to 700 per cent.

Q. And you have watched him, from the time he first became a "Post" boy, and watched his development, and in your opinion it has been beneficial and educational?

A. Yes, sir.

Q. Been good for him?

A. Fine.

Q. A good business boy now, is he?

A. He is.

MR. WELCH: Could there be any doubt or any issue on that thing, that it is a good thing or beneficial for these boys to sell?

MR. MILBURN: No.

CROSS-EXAMINATION.

By MR. WALSH:

Q. You superintended this work for the boy, did you?

A. I do, practically; I have not given it much attention though for the last six months.

By Mr. Milburn:

Q. Has he received remuneration from the Curtis Company, in the way of bonuses and prizes, over and above what he earned by selling the papers?

A. He has considerable.

Q. In what sums, do you know?

A. Well, at one time he got $250; one time $5; one time $10 and $20—different amounts. I think the total would amount in three and one-half years to $550.

Mr. Milburn: That is all.

By Mr. Walsh:

Q. The bonuses in the aggregate amounted to how much?

A. I would say about $550.

Q. And he earned a prize of $350?

A. He earned a prize of 290 or '95 dollars.

Q. What did he have to do for that?

A. It was a contest, increased circulation.

Q. What period did that cover?

A. A six months' period, about two years ago.

Q. How did he work that?

A. How did he work?

Q. Yes; to get the increase.

A. To get the increase?

Q. Yes.

A. In the first place, I think, at that time he had possibly 45 or 50 boys. In the first place, we made a map of the district—divided that up into squares of streets and then we placed one or two boys in every block in the district. If there were certain districts that we didn't have any boys—in those squares—he would go into that district with his bicycle, with maybe fifty "Posts" or "Country Gentlemen" or "Journals" on his bicycle, and try to find a boy that he thought would be suitable to sell publications in that particular

square. In that way, we loaded up every square in the whole district. It was no use to throw half a dozen boys into the same block, and in that way we had an organization at that time of about—I would say 175 boys, and then there was a contest going on for a sub-agent. We picked our best boys, and we put them into this contest. At that time I had two or three boys running in the contest, from some of the boys who were drawing a hundred and fifty, some of them five hundred and fifty—some of them as high as seven hundred copies a week. Of course, that helped our circulation—increased the business.

Q. In what months did this run along?

A. They generally run the summer months, beginning with about May. I think they generally started about May and ran up to about October 1st, if I am not mistaken.

Q. The work was done largely during school vacation time?

A. During the summertime. Of course, when people are away in the cities, and what helped him——

Q. This work was done in the populous portion of Philadelphia?

A. In the West Philadelphia portion. In our district, and at that time I also put up a prize of a bicycle, which cost $35, to the boy that made the biggest increase in his sales, covering that particular period, and a couple of other minor prizes of five to ten dollars.

Q. Did your boy go to school?

A. He was. He is going to school at the present time.

Q. Of course, you would not want him to do this work, if it interfered with school work, would you?

A. No.

Q. What was the circulation when he won the prize?

A. I really can't say, but I think we were drawing then about 1500 copies of "Posts."

Q. What is it now?

A. About 1200 copies, it has been for the last couple of weeks only 1000 copies. That is on account of the orders being cut down. The average drawing is 1200 copies at the present time.

Q. How many boys did you have in this contest? How many was the highest number of boys that you had during this contest?

A. About 175, I presume.

Q. Now, you have got between seventy-five and eighty-five?

A. About seventy-five to eighty-five.

Q. In this contest, you enlisted the services of almost every boy that you could get to sell the magazines?

A. Practically.

Q. You would not want your boy to engage in any kind of work, or any kind of service, while he was going to school, without you knew who he was working for, and the work that he was engaged in; that is true, is it not?

A. Yes, sir.

Q. And you think that is general among parents?

A. General.

MR. WALSH: That is all.

MR. MILBURN: That is all.

EXAMINER MOORE: Do you want to take a recess now?

MR. WELCH: Yes.

EXAMINER MOORE: A recess will be taken until two o'clock.

(Wherepon at 1.05 o'clock P. M., a recess was taken until two o'clock P. M.)

(After recess.)

EXAMINER MOORE: Are you ready to proceed, Mr. Milburn?

MR. MILBURN: I will call Mr. Anderton.

ARTHUR ANDERTON was called as a witness on behalf of the respondent, and, being duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Anderton, where do you live?

A. In Melrose, Mass.

Q. Do you handle the Curtis publications there in a wholesale way?

A. Yes, sir; I do.

Q. What was your original association with the Curtis Company?

A. Why, I started in as sub-agent for the Curtis.

Q. Were you a Curtis boy? Did you sell the "Post"?

A. Oh, yes; I was a Curtis boy for three years.

Q. Then you became the district agent for Melrose; is that correct?

A. Yes.

Q. When did you become the agent?

A. July, 1913.

Q. And you have handled their papers ever since that?

A. Yes, sir.

Q. Have you ever handled any other magazines or newspapers?

A. No; I handle the Curtis exclusively.

Q. Who do you supply?

A. I supply the sub-agents and all news dealers.

Q. News dealers?

A. Yes, sir.

Q. And then you distribute the magazines through boys?

A. Yes, sir; through boys.

Q. How many boys have you?

A. At the present time I have about twenty-two.

Q. Is that the number you have had right along, about?

A. Well, I started in with about eleven boys, when I first took it over.

Q. Were those boys turned over to you by anybody?

A. My first batch of boys was turned over to me.

Q. You have augmented that force until now you have about twenty-two?

A. Yes, sir.

Q. Has the Curtis Company co-operated with you in getting boys and maintaining the force?

A. In any way and every way I have had great co-operation.

Q. Who is the road man?

A. Mr. Linn.

Q. Where do you get the boys?

A. I have had several advertising campaigns and secured boys in that way, and we have a small population in Melrose and get to know ever so many boys, and boys that I think have got a little go to them, I go up and talk to them and try to induce them to sell the Curtis.

Q. Have you got any sums of money from bonuses or prizes that have augmented what you made from the sale of the papers?

A. Yes, sir.

Q. Is that a material consideration in your business?

A. I consider it so, yes.

Q. Any material amounts?

A. Yes, sir.

Q. Have you any idea about how much?

A. Well, in the four and one-half years I have had probably $75 or $80.

Q. But you have moved recently, have you not?

A. Yes, sir.

Q. Who is helping you take care of that business now?

A. Well, my mother and sisters. I have one of my Curtis boys deliver the copies on Thursday mornings to the news dealers, and all of the sub-agents come to my house.

Q. You are there every week?

A. Every Saturday and Sunday.

Q. You have general supervision over the whole thing now, but your mother and sisters are helping you?

A. Yes, sir.

Q. Do these boys handle anything other than Curtis magazines.

A. No; they handle Curtis exclusively.

Q. They have customers to whom they take and sell the papers?

A. They all have. I don't believe we have a street boy.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. What do you do towards securing boys?

A. Why, I have—I try to get in touch with my sub agents.

Q. They are the retailers, are they not, boys?

A My boys, yes.

Q. What are your sub-agents, boys?

A. My sub-agents are boys, yes, and I try to secure through them the names of any intelligent boys that they think might be willing to take up the Curtis publications, and I try to get in touch with them.

Q. As a matter of fact, a great many of your boys come through that source, do they not?

A. Yes, sir; a majority of them.

Q. The boys themselves—your sub-agents—work up the boys for you, do they not?

A. Yes, sir.

Q. Now, you have twenty-two boys?

A. Yes, sir.

Q. At the beginning you had about eleven?

A. Yes, sir.

Q. How many boys are with you now that were with you when you began?

A. I think I have about four.

Q. Four of the same boys?

A. Four of the same boys, yes.

Q. Are there any master salesmen amongst them?

A. No, sir; I haven't a master salesman. I have just one member of the League.

Q. Do you ever get any positions for the boys?

A. I have not had any need to do that, no.

Q. You could not unless they were master salesmen, as I understand the plan?

A. Not through the Curtis plan, no.

Q. How many papers do you handle?

A. We handle from 350 to 400 "Ladies' Home Journals," and approximately 350 "Saturday Evening Posts" and probably 100 to 125 "Country Gentleman."

Q. Now, have you the new contract?

A. I have, yes.

Q. When did you make that?

A. Around the first part of February.

Q. This year?

A. Yes, sir.

Q. What about your bond under the contract? Did you increase it or not?

A. Increased it from twenty-five to sixty-five.

Q. Dollars?

A. Yes, sir.

Q. Now, in remitting for your magazines, when do you do that? How do you do that under the new contract?

A. I always make up my remittance on a Saturday night for the previous week's sales.

Q. You get them on Thursday, do you?

A. I get them on Thursday.

Q. And on Saturday night you remit?

A. Yes, sir.

Q. Do you remit for all of the sales on Saturday night? Are your papers all sold by Saturday night, so that you can do that?

A. Why, yes, with the exception of a few returns we have.

Q. Now, in the event they are not sold, you remit for them just the same, do you not?

A. Why——

Q. Or do you wait until the next week and remit?

A. No, I deduct. I don't take any credit for our returns until three weeks afterwards.

Q. And then you get credit?

A. Then I get credit for the full amount of my returns.

Q. Now, in the event, as I understand the contract —as I understand it is a fifteen per cent. returnable contract, is it not—the new contract?

A. It is what?

Q. Fifteen per cent. you can return.

MR. WELCH: No, there is no limit.

MR. DALY: It is fully returnable?

THE WITNESS: Yes; I don't have any cause for that any way.

By MR. DALY:

Q. The contract requires a quota, does it not?

A. Yes, sir.

Q. You are required to take a certain number of magazines under the contract?

A. I am.

Q. How is that regulated?

A. My requirement is so small that I don't really need to consider that at all. I am up above that; no question.

Q. I know there is no question about it, but I just asked you how it operated, is all. How do you do that?

A. I don't just get your point.

Q. Well, there is a quota you have to order—you have to order so many, do you not?

A. I do, yes.

Q. Now, in the event you do not sell them, you return them all under the new contract?

A. I do; I return what I have left, yes.

Q. But in your case you have very few returns; is not that correct?

A. Yes, sir.

By Examiner Moore:

Q. Is there a limit as to how many you can return?

Mr. Welch: Not under the new contract.

By Mr. Daly:

Q. Can you return any of the quota; that is what I am trying to get at. For instance, if you were to fall below the quota, do you return them, or have you ever had that experience?

A. I have never had any, of course, to find out about that, because I am always away up above my quota.

Examiner Moore: I do not understand that.

Mr. Milburn: You see, the title remains in the company until the papers are sold. They can return any amount.

Mr. Welch: The title does not leave the Curtis

Company until the magazines are sold. Whatever the agent does not sell are returned.

MR. DALY: If the Examiner please, my recollection of the contract is that there is a quota.

MR. WELCH: Here is the contract.

EXAMINER MOORE: This is supposed to be an agency contract?

MR. WELCH: Absolutely so.

By MR. MILBURN:

Q. There is a quota number in your contract?

A. Yes, sir.

Q. You have never fallen below?

A. No, sir.

By MR. DALY:

Q. You do not know how that operated in your case, do you?

A. No; I do not know how it would.

MR. DALY: That is all.

MR MILBURN: I will call Mr. Turner.

(Witness excused.)

---

CLARENCE E. TURNER, was called as a witness on behalf of the respondent, and, being duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Turner, where do you live?

A. I live in Hallwell, and do business in Augusta.

Q. Augusta, what state?

A. Maine.

Q. You handle Curtis publications, wholesale, in Augusta?

A. Yes.

Q. You are the district agent there, are you not?

A. Yes, sir; I have been a little over six years.

Q. Do you handle any other magazines?

A. Not in the wholesale line.

Q. What is your business, in addition to the wholesaling of the Curtis papers?

A. Retail magazines, newspapers, art store, stationery—combination store.

Q. Are there any other magazine wholesalers in Augusta?

A. Yes, sir; one there.

Q. Who is he?

A. J. F. Pierce.

Q. What to they wholesale?

A. They wholesale the Hearst magazines and the Crowell—practically all the magazines, to a certain extent.

Q. Do they now wholesale "Pictorials"?

A. Yes, sir.

Q. Were you ever approached to wholesale "Pictorials" or "Every Week."

A. Yes, sir; we were. The "Every Week" agent was in the store, and we would not consider it at all.

Q. Were you ever asked to leave the Curtis people under your contract, to handle either "Pictorial" or Crowell?

A. No, sir.

Q. Or any other magazine?

A. No, sir.

Q. How many boys have you?

A. We have thirty.

Q. What publications do these boys handle?

A. The Curtis, with the exception of three boys who sell newspapers.

Q. The rest handle Curtis only?

A. Yes, sir.

Q. Have they their own customers, whom they supply?

A. Yes, sir.

MR. DALY: Three sell on the streets?

THE WITNESS: Yes, sir.

By MR. MILBURN:

Q. Of the thirty, three of them, only, sell newspapers; is that correct?

A. Yes, sir.

Q. Who is the Curtis representative in your district?

A. Mr. Clay.

Q. Does Mr. Clay aid or co-operate with you in getting these boys?

A. He surely does.

Q. How do you go about it?

A. Why, we advertise through the local papers, and we also call a meeting through the Y. M. C. A. secretary; also list with the Superintendent of Schools.

Q. Are the boys members of this Curtis League?

A. We have three.

Q. Have you, during your agency, received in the way of bonuses, or prizes, or other payments, remuneration in addition to the amount of money you earn in selling the papers?

A. I should say about $200, altogether.

Q. How do your boys get the papers?

A. The company come to the store for them.

Q. You know all of them personally?

A. Yes, sir.

Q. Know their parents?

A. Yes; most of them.

Q. Do you report these boys every week to the Curtis Company?

A. Yes, sir.

Q. And the amount of their sales?

A. Yes, sir.

Q. Fill in this report sheet that you have?

A. Yes, sir.

Q. When you took over the agency, were some boys turned over to you by the Curtis people?

A. Yes, sir; six.

Q. You have increased that force to thirty?

A. Yes, sir.

Q. You spoke of Y. M. C. A. meetings, or meetings at the Y. M. C. A. What do you mean by that?

A. Why, Mr. Crumpet was there and helped us in organizing kind of a club for new boys as well as old boys.

Q. Mr. Crumpet is a Curtis representative, is he?

A. Yes, sir.

Q. And you held this at the Y. M. C. A. hall?

A. Yes, sir; also had the Superintendent of Schools, and other of the principal men give a short talk before the boys, on certain lines of business.

Q. These are school boys, aren't they, most of them?

A. Yes, sir; all of them.

Q. You know their parents?

A. Most all of them; yes, sir.

Q. And have conferred with them about the boys?

A. Yes, sir.

Q. Seen them?

A. Yes, sir.

Q. Worked with them?

A. Yes, sir.

Q. You are under the new contract, too?

A. Yes, sir.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. When did Crowell's representative see you?

A. I believe it was in January.

Q. This year?

A. Yes, sir.

Q. When did the "Pictorial" representative see you?

A. That was two years ago, I think.

Q. Do you know who it was that called on you?

A. I do not.

Q. In neither case do you know?

A. I do not.

Q. You did not know the name of the man?

A. No, sir.

Q. What kind of a store have you there?

A. Why, it is what they call an art, stationery and periodical store.

Q. Did this agent at that time—I am speaking of the "Pictorial Review" agent—did he ask you to take on the "Review"?

A. Not exactly. He wanted to know if we would consider it.

Q. You said no?

A. We were a little bit undecided, then we decided that we would not.

Q. Did you ask permission of the company to take it on?

A. No, sir.

Q. Now, you co-operated with the Y. M. C. A.?

A. Yes, sir.

Q. How many memberships have these boys of yours secured in the Y. M. C. A., through the Curtis agency?

A. Three.

Q. Do they have to be master salesmen to get to be that?

A. No, sir; just a League salesman.

Q. They are League salesmen?

A. Yes, sir.

Q. Now, you said that there were advertisements inserted by the company to get boys. As a matter of fact, don't the boys themselves find a great many boys?

A. Yes, sir; they do.

Q. That is one of the great sources of boy supply, is it not?

A. Yes, sir.

Q. Now, on the report that you send in, do you put down all of the thirty boys?

A. Yes, sir.

Q. That includes the three street boys, as well as the others?

A. Yes, sir.

Q. Now, you take a quota, do you not, out of the new contract?

A. Yes, sir.

Q. Have you ever sold less than the quota?

A. No, sir.

Q. You are always over it, are you?

A. Yes, sir.

Q. Now, how do you settle for your magazines under the new contract?

A. Either send the check in, Saturday night, after the sales date, or Monday morning.

Q. Are your returns always in by that time?

A. No, sir.

Q. What do you send a check for on Saturday night?

A. We send a check for the full amount of our order, and we get a credit for our returns, three weeks from the sales date.

Q. Three weeks from the time?

A. Yes, sir.

Q. Then you pay every week?

A. Yes, sir.

Q. For the complete order, less the returns of last week, is that correct?

A. No, sir; we have three weeks on the returns, but those we get credit for when they are returned at the end of three weeks.

Q. Now, how many of these boys—these thirty-three or twenty-seven boys that you testified about, were with you when you began business?

A. We have just one, started in six years ago.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. Is this staff of boys a fairly permanent staff?

A. Yes, sir; I should say the average boy usually probably stays three years. That is what you call regular boys. Of course, there are a few of what we call floating boys. The boys that make good generally stays with us three or four years.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. How many boys have you with you that stayed three years?

A. I should say probably we had twelve, or such a matter.

Q. Twelve out of the twenty-seven?

By MR. MILBURN:

Q. And the others stay varying lengths of time?

A. Yes, sir.

MR. MILBURN: That is all.

EXAMINER MOORE: Call your next.

MR. MILBURN: Mr. Kelly.

(Witness excused.)

---

PATRICK J. KELLY, called as a witness in behalf of the respondents, being duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Kelly, by whom are you employed?

A. By whom? The Curtis Publishing Company.

Q. How long have you worked for them?

A. Six years as a staff man.

Q. What are you now?

A. Superintendent of agencies for Connecticut and Rhode Island.

Q. Before that, what was your position with them?

A. Before I was superintendent?

Q. Yes.

A. I was assistant manager of road men. Before that, I was assistant district manager in the sales division. Prior to that, I was a staff road man. Before that, I was a district agent in New Haven, Connecticut.

Q. So you have worked up through the different grades of the company to your present position?

A. Yes, sir.

Q. Do you have general charge of the district agents within your district?

A. Yes.

Q. What cities and towns does that district cover?

A. It covers all of the cities and towns in Rhode Island and Connecticut. Do you wish me to name them?

Q. Name the principal ones?

A. In Connecticut, Stamford, South Norwalk, Bridgeport, New Haven, Milford, Wallingford, Meridan, Hartford, Bristol, New Britain, Torrington, Winsted, Waterbury, Naugatuck, Seymour, Ansonia, Derby, Danbury, Rockville, South Manchester, Middletown, Putnam, Norwich, New London. In Rhode Island, Westerly, Providence, Pawtucket——

Q. I do not think we need put all of those towns in the record, but throughout your district you cover all of the principal towns and cities, do you not?

A. Yes, sir.

Q. How many in all?

A. Thirty-one.

Q. How many district agents are there under you?

A. Thirty-one.

Q. Do you, in the course of your business or in the performance of your duties for the company, visit these towns?

A. I do.

Q. And visit the agents?

A. I do.

Q. You have been doing that for——

A. In Connecticut and Rhode Island I have been doing it since June, 1915.

Q. You get there fairly frequently?

A. I get around about every eight weeks or ten weeks.

Q. You are familiar with all the local conditions in all these towns?

A. Yes, sir.

Q. And where it is necessary to change an agent, you do so?

A. Yes, sir; I have done so in several cases.

Q. Have you recently, at Mr. Douglas's request, or at the request of the Curtis Publishing Company, made a specific investigation of your district?

A. Yes, sir.

Q. To find out how many wholesalers there were in these towns?

A. Yes, sir; I did.

Q. To find out what papers and magazines our agents and other wholesalers carried—is that correct?

A. Yes, sir.

Q. And did you report these facts to Mr. Douglas?

A. I did.

Q. And in the investigation, did you include an inquiry as to whether the agent handled the Curtis publications first of all?

A. Yes; I did.

Q. Or only the Curtis publications?

A. Yes, sir.

Q. And all allied matters of that kind?

A. Yes, sir; everything pertaining to the wholesale business.

Q. And you reported this to the home office?

A. Yes, sir.

Q. Town by town?

A. Yes, sir; town by town.

Q. When you go to a town, how did you get this information?

A. Well, I got the information from various sources, from the circulation managers of the newspapers located in the town, and the large towns adjacent thereto. I got it from the different dealers by asking from whom they got their supply of newspapers and from our agents, and in most cases, from the other agents. I investigated every source from which copies could be secured.

Q. You say you covered thirty-one towns?

A. Yes, sir.

MR. DALY: May I ask a question. I just want to get that clear?

MR. MILBURN: Yes.

By MR. DALY:

Q. Did you go around and see the wholesalers yourself?

A. I saw most of them.

Q. Did you see all of them?

A. I saw the wholesalers except in one or two cases where they were handling only one or two publications. In those cases, I would call them up. In Bridgeport, Connecticut, I did not ask the man there. I called him up and asked if he wholesaled anything besides the "Pictorial Review" and he said no. The others I did. Where I knew a man wholesaled only the "Pictorial Review," I did not go to see him and if he had a 'phone I called him up and I asked the dealer from

whom they got their supply, and they said they got the "Pictorial" from so and so. If they were only newspaper wholesalers, I asked what they wholesaled besides newspapers and so forth.

MR. DALY: All right.

By MR. MILBURN:

Q. In how many of your thirty-one towns is the Curtis district agent the only wholesaler?

A. Is the Curtis the only wholesaler?

Q. Yes.

A. In four small towns—they are very small.

Q. Arriving at those four, do you, or did you not count the American News Company—as wholesalers?

A. Oh, no; there are only four branches of the American News Company in my territory, and in those towns there are more than one wholesaler other than the news company branch.

Q. You do not count them?

A. No, sir.

Q. In making these reports, do you count a new man whom the "Pictorial" or Crowell people may have appointed?

A. As a magazine wholesaler; yes.

Q. You do count him?

A. Yes, sir; because he does supply it at wholesale.

Q. That leaves a total of four towns where there is nobody but the Curtis district agent?

A. In four small towns, and in practically all those four cases there is only one dealer in town and he practically wholesales nothing but our paper.

Q. Taking your towns and not counting the men who may be recently wholesaling only the "Pictorial" and only "Every Week," how many towns are there where there is only one wholesaler besides the Curtis district agent—do you understand my question?

A. Do you refer to magazines only?

Q. Magazines only.

A. There are four others, where there is only one besides our agent; that is, the American News Company have a branch—for instance, in Hartford, Connecticut——

MR. DALY: Wait just a minute.

By MR. MILBURN:

Q. I do not know whether I made myself clear to you. I asked you in how many of your thirty-one towns is there only one wholesaler? I do not want you to count a man who may be only wholesaling "Pictorial" or "Every Week" as a wholesaler. Do you understand me?

A. Yes.

MR. DALY: What does this wholesaler include?

MR. MILBURN: A magazine wholesaler.

MR. DALY: Sells various magazines?

MR. MILBURN: Yes.

By MR. MILBURN:

Q. As I understand it, you have testified that there are four small towns where the Curtis man is the only man—is that correct?

A. That is correct.

Q. In the twenty-seven others there are more than one?

A. There are more than one wholesaler other than our agent.

Q. Now, can you answer my question referring to the "Pictorial"?

A. There are four other towns that our agent and the "Pictorial" agent are the only two other than the American News Company branch, which is located in each of those four towns.

Q. You have general charge and supervision over these thirty-one agents?

A. Yes, sir; I do.

Q. And over this district, and in the course of your duties, have you encountered any instances in which either the Crowell Publishing Company or the "Pictorial Review" have endeavored to avail themselves of your agents?

A. Yes, sir; I have.

Q. To wholesale their papers?

A. Yes, sir.

Q. Under what circumstances?

A. Well, Meriden, Connecticut, they actually appointed the clerk of our agent there, knowing that our agent could not take it—they appointed a young boy named Smith, working for Mr. Malloy, as their agent, whereas, as a matter of fact, Mr. Malloy was the agent and paid for the stuff and put it out and Smith did not have anything to do with it.

Q. You found that out?

A. Yes, sir.

Q. Did you change your agency there?

A. No, sir; he is not handling the "Pictorial" there any more.

Q. Smith is not handling it any more?

A. No, sir; he does not work there.

Q. Who handles the "Pictorial" there?

A. A man by the name of Lange, who handles also a New York paper. In Bridgeport, Connecticut, they tried to do it, but the agent would not take it.

By Mr. Daly: I ask that that be stricken out.

Mr. Milburn: I consent to that.

By Mr. Milburn:

Q. Are there any other instances where——

A. That is the only instance of one of my men taking it that way.

Q. Generally speaking, what is the character of these district agents—how many boys are there?

Mr. Daly: I object to that.

MR. WELCH: Just wait one minute.

MR. DALY: The general character of these agents?

MR. MILBURN: I will withdraw the question and ask a specific question.

By MR. MILBURN:

Q. Of these thirty-one district agents, how many of them are boys?

A. Four.

Q. What are the others?

A. The others are composed, in four cities, of men who wholesale only, and in the balance of them——

Q. Wholesale only what?

A. Magazines and newspapers—they are practical wholesalers of magazines and newspapers and do not make their living in any other——

MR. DALY: What is that?

A. They are practical wholesalers.

MR. DALY: No; but you said something else.

THE WITNESS: That is, they are practical wholesalers in that they do nothing else for a living.

MR. DALY: I thought you said something else.

By MR. MILBURN:

Q. What are the rest?

A. Newsdealers, and in one case a ticket agent, in the ferry house in New London.

Q. And they have stores?

A. News stores generally and tobacco stores—candy, tobacco, newspapers, stationery and books, etc.

Q. Do you know of your thirty-one agents, how many wholesale only Curtis magazines?

A. Wholesale Curtis only?

Q. Yes.

A. Twelve.

Q. Do you know, of your thirty-one district agents,

how many began the wholesaling of magazines with the Curtis publications?

A. Twenty-five.

Q. Is that so?

A. That is a fact.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. Now, you stated at Meriden, your agent appointed a clerk to handle the "Pictorial Review."

A. The "Pictorial Review" appointed the clerk their agent.

Q. When did that happen?

A. Oh, that happened in the May issue—the issue dated May 10, last year, 1917, when they made the change, as I understand it, or about that time.

Q. You mean the change in the method of distribution?

A. Yes, sir; change from the News Company to the distributing direct.

Q. What was the reason of the appointment of this clerk?

MR. MILBURN: If you know.

By MR. DALY:

Q. You made this investigation. You probably know that.

A. Mr. Malloy, under the terms of his contract, could not do it without asking permission of the Curtis Publishing Company, and he was under the impression that we would not give it, and he did not ask it, and this clerk took it.

Q. That was satisfactory to Mr. Malloy, was it not?

A. It must have been; he was paying for the copies.

Q. And he wanted to handle them?

A. He must have.

Q. How many "Pictorial Reviews," if you know, did this clerk handle?

A. I did not ask how many. He took the entire output, though.

Q. Did you interview that boy?

A. Yes, sir; because he helped put out some of our business. He was Mr. Malloy's clerk and part of his duty was to take care of our publications.

Q. Was that part of your investigation, to find out what the "Pictorial Review" was doing?

A. I did not find out how many copies the "Pictorial" were selling——

Q. You did not ask for that?

A. No, sir.

Q. When did you see this clerk—how often?

A. Every time I visited Meriden. He does not work there now.

Q. This was last year that you made this investigation?

A. What investigation do you mean?

Q. Your investigation.

A. Well, last year I found out——

Q. The one you are testifying about.

A. Not the investigation as to the wholesalers in each town. That is not the time I found that out.

Q. When did you find it out?

A. I found it out last summer, right after he took it on.

Q. Who handles the "Pictorial Review" there now?

A. A fellow by the name of Lange.

Q. What does Lange do?

A. He is a newsdealer and runs a cigar store.

Q. What does he deal in?

A. He has a general cigar store and sells cigars

and newspapers. He is agent for the Crowell publications and agent for the "Pictorial" and the "New York World."

Q. Is he one of what you call the practical wholesalers?

A. No, sir; first he is a retailer and second he is a wholesaler.

Q. What equipment has he to handle these magazines?

A. He has no equipment, the same as most men in small towns.

Q. He is actually a retailer?

A. Our agent is, too, for that matter.

Q. I asked what Lange is?

A. He is a retailer and a wholesaler.

Q. His principal business, however, is that of a retailer?

A. Just the same as our agent.

Q. I am not asking you about your agent—just tell me now, Mr. Kelly, about this particular man?

A. Yes; he is a retailer. They all are in the small towns.

Q. That was the only instance of that kind that you found?

A. That was the only instance where it was put into effect.

Q. Now, what does Malloy handle?

A. Malloy?

Q. Yes.

A. At wholesale, you mean?

Q. Well, altogether—what does he handle?

A. He has a stationery store and circulating library, and sells office supplies, magazines, newspapers and cigars, etc.

Q. What magazines does he sell?

A. What magazines does he sell?

Q. Yes.

A. All the magazines that a retailer would sell.

Q. What does he wholesale?

A. He wholesales the Curtis publications.

Q. What territory would he cover?

A. The city of Meriden.

Q. Any outlying territory?

A. He covers South Meriden, which is outside of the city limits.

Q. What else does he wholesale?

A. The Curtis publications, the Hearst publications and "Collier's Weekly."

Q. City newspapers?

A. The "New York Evening Journal" and the Sunday "American."

Q. Is that all he sells wholesale?

A. Yes, sir.

Q. Does he sell the "Motion Picture"?

A. Yes, sir; and the Warner group and the "Literary Digest."

Q. And "Collier's Weekly"?

A. Yes, sir.

Q. Does he handle the Munsey publications?

A. No, sir; he said the Munsey publications would not appoint an agent. They send it to any one who wants it. Munsey considers the town too small.

Q. Tell me again the outlying territory that this man Malloy wholesales to?

A. He really does not wholesale except to two boys—Curtis publications—in South Meriden.

Q. That is outside of the city of Meriden?

A. Outside of the limits of the city of Meriden.

Q. Do you know what retailers he reaches?

A. Retailers?

Q. Whom does he serve at wholesale?

A. All the boys that buy the Curtis publications and all the dealers in the city with the exception of one.

Q. How many dealers are there in the city?

A. There are fifteen or twenty.

Q. You stated what newspapers he wholesales, did you not?

A. Yes; I did.

Q. What were they?

A. The "New York Journal" and the "New York Sunday American." He also handles the "Waterbury Herald."

Q. Does he handle anything else?

A. No; the New Haven papers are sent in there retail. Anybody can get them that calls for them.

Q. Will you tell me again what Lange handles?

A. The "New York Evening World," the Crowell group and the "Pictorial Review."

Q. There were four cities in which you said there was nothing but your agent—am I right in that?

A. Yes, sir.

Q. How many wholesalers of the character of Mr. Malloy are there in these various cities—there are thirty-one cities—how many wholesalers are there like him?

A. In what respect—carry on the same line of business?

Q. Sell large numbers of magazines.

A. At wholesale?

Q. Yes, and newspapers, if they do, and your publications.

A. Do you want the wholesalers, too, in the large cities like New Haven, who do not carry on a retail business?

Q. You have testified to thirty-one cities.

A. But there are four in which there is only one.

Q. Who are these four?

A. Millford, Connecticut.

Q. Yes, who is he?

A. Sabloff & Wilson.

Q. Will you tell what he sells?

A. He sells our stuff at wholesale.

Q. What else?

A. Nothing; he is the only man in town in the newspaper business. He gets everything else direct and sells at retail. He buys no magazines or newspapers other than the Curtis publications at wholesale.

Q. Is there no regular wholesaler like him—like we are talking about—in that city?

A. No, sir.

Q. Name the towns in which there are others like Malloy?

A. Well, in Stamford, Conn.—but he is not in the retail business. He wholesales our magazines, and he wholesales "Collier's Weekly" and the "Motion Picture."

Q. What is his name?

A. Jack Newman.

Q. Who else is there?

A. The Stamford News Company.

Q. What do they do?

A. They conduct a general stationery, magazine and cigar store, and they wholesale the Hearst group, the "Pictorial Review" and anything else they want in that line.

Q. Where is there somebody else like Malloy that you found in your investigation?

A. South Norwalk.

Q. Who is the man there?

A. Fred Coleman. He wholesales our group and the Hearst group.

Q. What else?

A. I believe he was thinking—I think he took the Warner group and "Motion Picture" and "Literary Digest."

Q. Any newspapers?

A. The Waterbury and Bridgeport "Heralds" and the "New York Evening Journal" and Sunday "American" and all the New York Sunday newspapers.

Q. He is under contract with the Curtis Publishing Company?

A. He is.

Q. And has been for some length of time?

A. He has.

Q. He does not handle the "Pictorial Review," does he?

A. No.

Q. Nor "Every Week"?

A. No, sir.

Q. You have not mentioned that?

A. No, sir.

Q. In what town is he?

A. South Norwalk.

Q. How big a town is that?

A. Ten or fifteen thousand.

Q. He is the only man who sells on a large scale there, is he?

A. He is the only man on a large scale; yes.

Q. Who wholesales?

A. Yes.

Q. In what other town or city is there an agent of the character that you and I have been talking about?

A. In Danbury, Conn.

Q. Who is that?

A. J. A. Canfield.

Q. Will you tell us what he sells?

A. Our group, the "Motion Picture" and "Literary Digest" and the Warner group, the "National Sportsman" and the "New York Evening Journal."

Q. Is that all?

A. That is all I remember. You have the information there. That is all I recall.

Q. I have not it here.

A. Somebody has it.

Q. I haven't it at all. That is the reason I am asking you. He is your agent?

A. He is.

Q. Does he handle the "Pictorial Review"?

A. He does not.

Q. Or "Every Week"?

A. No.

Q. He is the only wholesaler then that there is there of that description, is he not?

A. No; he is not.

Q. I asked for the wholesalers in those cities——

A. You just asked about him, and I gave the information. Canfield is our agent. There is another one in town by the name of Cuff, James Cuff.

Q. What does he handle?

A. He has the Hearst group, the "Pictorial" group and the Sunday newspapers——

Q. Sunday newspapers?

A. Yes; I do not know whether the Crowell man is still there or not, but Andrew Stelzle, or something like that—a German fellow—has the Crowell group.

Q. He took on the Crowell group?

A. Yes, sir.

Q. What else did he sell?

A. That is all he sold wholesale. He had one of the New York evening newspapers—I forget just which it is; it is in the report—the "Globe" or the "Herald."

Q. He handles the Crowell magazines?

A. Yes, sir.

Q. In what other places are there dealers of this description?

A. Well, in Torrington, Conn.——

Q. How big a place is that?

A. Torrington is about fifteen or twenty thousand people.

Q. Who is the man there?

A. Reynolds News Agency—G. M. Reynolds is our agent. He handles our paper, the "New York Evening Journal" and the "Waterbury Republican."

Q. Anyone else?

A. That is all who wholesale.

Q. He retails the other magazines?

A. Yes, sir; he gets them from the local representative of the other publishers, or——

Q. What else does he do?

A. He has a newspaper and a stationery store, and sells phonographs and records.

Q. Sells cigars, etc.?

A. All those stores sell that stuff. They sell all that stuff.

Q. You have him, have you not?

A. Yes.

Q. Who else in the same town is equipped like him?

A. There is the McKitie Brothers.

Q. You went through these towns?

A. Yes, sir.

Q. What is that name?

A. McKitie Brothers.

Q. What do they handle?

A. The "Pictorial Reveiw," and they were taking on all those similar publications—the "Literary Digest," and——

Q. What did they handle in 1917—do you know?

A. In 1917?

Q. Yes.

A. They did not handle anything. They were looking for stuff. They were on the market for an agency—any agency they could get. They wanted our stuff.

Q. They did not have any equipment then at all?

A. They had a store, just like our agent. He has no equipment either.

Q. No established business?

A. No, sir; and anyone who wanted——

Q. You say——

MR. MILBURN: Let him finish. He has not finished his answer.

THE WITNESS: Anyone who wanted to put in an agent, our agent would turn them over to him, as our agent said he did not want to handle them.

By MR. DALY:

Q. How do you know this man is the agent for the "Pictorial Review"?

A. Our agent gets them from him. One of the McKitie Brothers said so.

Q. Did he sell to your agent—do you know that?

A. He said so?

Q. When did he do that?

A. Mr. Reynolds said he got them from the McKitie Brothers. I called at the store, in my general supervision of the newsstands, and I know he sells the magazines.

Q. The "Pictorial Review"?

A. Yes, sir; and the dealers say they get them from him.

Q. How many others of this sort of agents are in your territory?

A. In New Britain, Conn., Mrs. Chatfield is our agent.

Q. What does she sell?

A. She has a general news store and is a wholesaler only for the Curtis publications and the Hearst group.

Q. She sells newspapers?

A. At wholesale, the Hearst newspapers—the Hearst Sunday newspapers.

Q. She is under contract with you?

A. Yes, sir.

Q. And has been for a long time?

A. Yes; for a number of years.

Q. Who else is there that has the same sort of business as she has?

A. In New Britain, Vernon Mohills.

Q. What does he sell?

A. He is wholesale agent for the "New York Evening Journal" and one of the Hartford newspapers. Mohills handles the "Pictorial Review" and the Crowell group, and he was getting the Warner group, as I understand it, and "Motion Picture," and "Literary Digest." He has a retail news store.

By MR. DALY:

Q. Now, is there any other city in which there is a leading wholesaler that you have not mentioned?

MR. MILBURN: What do you mean by "leading wholesaler"?

MR. DALY: I mean the kind we are talking of.

MR. MILBURN: That was not asked him before.

THE WITNESS: These are not leading wholesalers that I am giving you. That was not the first question you asked. You asked if there were other towns in which we had agents like Malloy.

By MR. DALY:

Q. That is it. Go ahead.

A. In Middletown, Connecticut, Hazen's Book Store, which is a high-class book store, is our agency, and no other agency for newpsapers or magazines.

Q. How big a place is it?

A. Fifteen to eighteen thousand. In that town, A. K. Sanders is the Hearst wholesale agent for Hearst magazines and Hearst newspapers, "Pictorial," Crowell, "Motion Picture," "Literary Digest," and all of those magazines.

Norwich, Connecticut, John J. Shea is our agent only. He conducts a newspaper supply and cigar store. In that town a fellow by the name of Nowatski is the

Hearst agent, "Pictorial," Crowell, "Motion Picture," "Literary Digest," and so forth.

Q. Have you covered the leading towns in your statement as to that territory—the large towns?

A. No, the large towns come under a different heading.

Q. What are the large cities you have given here in the record?

A. Providence, Rhode Island. In that town Max Silverstein is our agent. He handles at wholesale.

Q. You can tell if you want to. He has already testified.

A. He handles the Hearst group, the Munsey group, "Motion Picture," "Literary Digest," "Collier's," "Pearson's," "Boston American" and the "Providence Tribune." In that town the American News Company has a branch that handles all magazines at wholesale and the "Pictorial Review" did have one fellow acting as agent, but it has been broken up and the District Dealers' Association has it, and it is split up in many different sections of the city. In Bridgeport, Connecticut——

Q. You said the "Pictorial Review." When was that broken up?

A. No; I said they discontinued having them, and the District Dealers' Association, the association of all the news dealers in town, are now handling it.

Q. Retail dealers?

A. The retail dealers have an association that they call the District Dealers' Association, and one man in each section of the city looks after it.

Q. But there is only one man there of the type of Silverstein; is that correct?

A. Silverstein and the American News Company branch.

Q. The American News Company ships its stuff in there and has a delivery there?

A. They have a delivery there, and they have an entire building that they use for their business. They have a fleet of automobile trucks, that they use for delivery.

Q. And that is one of the sixty branches that have been testified about in this case?

A. Yes, sir.

Q. What other city did you mention?

A. Bridgeport, Connecticut, Walter Snyder is our agent. He handles wholesale the Hearst group, Munsey group, "Motion Picture," Warner, "Literary Digest" and "Pearson's". He also wholesales the "New York Evening Journal" and "Bridgeport Herald."

Q. He is your agent?

A. He is our agent. There is a branch of the American News Company there, and then a gentleman——

Q. That is one of the sixty branches?

A. That is one of the branches of the American News Company.

Q. I know; it is testified in this case that there are sixty main branches. It is one of the main branches?

A. I know it, it is a branch of the American News Company, in Bridgeport, Connecticut. That is my understanding of it.

Q. You do not know whether it is one of the sixty or one of the forty?

A. I haven't heard anything about sixty branches. There is a fellow by the name of Leo McGrath has a store, that is agent for "Pictorial Review." He don't wholesale anything else but "Pictorial."

Q. He is the principal agency in that town?

A. No.

Q. Who has the principal agency?

A. The Bridgeport News Company.

Q. That is the one you have described?

A. That is the branch of the American News Company. That is the principal dealer in that town.

Q. Who is the next to the principal dealer?

A. Walter Snyder.

Q. He is the man you told about?

A. He is the second man.

Q. Now, do you know what equipment this "Pictorial Review" agent has for delivering those magazines?

A. Why, as I understand it, he has some package delivery man there to do it for him.

Q. Do you know what equipment Snyder has?

A. Yes, sir; an automobile.

Q. Covers all of the retailers, does he not?

A. Yes, sir; he has a delivery for his "Evening Journal."

Q. Do you know whether he follows up these sales or not?

A. Yes, he has a man there that works for him that delivers magazines, whatever day they come out, and follows them up every Monday and Tuesday by collections.

Q. How many "Posts" does he handle?

A. About 3500.

Q. How many "Journals"?

A. About 2750.

Q. How many "Country Gentleman"?

A. Seven hundred.

Q. Do you know whether Snyder got the instructions to your road men that were sent out by the Curtis Company, and are in evidence in this case, as to the special clause in the contract, clause 13?

A. You mean those form letters that were submitted in evidence?

Q. Yes.

A. He did.

Q. Do you know what he did relative to the "Pictorial Review," after that?

A. I know that he never took on the "Pictorial Review." Their road men were there several times.

Q. To get him to take it on?

A. Yes, sir; they tried to get him to take it. and tried to have him—have his men take it. At least, so he told me, and was willing to make affidavit to it. He said he would not do any such thing as that.

Q. Now, did you receive these instructions that were sent out about Clause 13 in the first contract?

A. You mean those form letters—copies of them?

Q. Yes.

A. I did.

Q. And what did you do towards seeing that the contract was enforced?

A. What did I do?

Q. Yes?

A. I saw that it was lived up to.

Q. You attended to that, did you not?

A. I did.

Q. In what way?

A. Well, when my district agents wanted to know whether they would take it or not, I told them I did not think it was a very good policy for them to take it; that they had enough business, and that if they were pushing "The Ladies' Home Journal" and "Good Housekeeping," they had enough to do in pushing big magazines of that class.

Q. Was that all you told them about it?

A. That is all.

Q. Weren't you instructed to tell them?

A. They asked me if they could handle it and I said I did not think so, but that they had better write to Philadelphia, and they would find out there.

Q. You would call attention to the contract they had about it?

A. If they asked me I told them, "You got a letter, didn't you? I got the same letter as you did."

Q. You got instructions, you testified, what to do about that?

A. You asked me if I got that same letter that the district agents got. I said I did. I got that form letter.

Q. After you got that what did you do about it?

A. I did nothing unless I was asked by a district agent about the case, and I told him that my instructions were the same as his, and he knew what Clause 13 was in his contract, and if he wanted to find out anything further, to write to Mr. Grostein in Philadelphia.

Q. How many men asked you about this contract of the thirty-one?

A. Some fifteen or twenty of the small fellows did. The boys didn't. They didn't get the letters; that is, they didn't get any. They said they got them and they wanted to know what it was about. I said, "I don't know——" put it off, because the boys weren't interested in it. They were asked.

Q. But you did know, didn't you?

A. I didn't have to tell the boy I knew it. He wasn't interested in it.

Q. I asked you whether you did not know. You did know, you had instructions.

A. I knew that it was referring to Clause 13 of his contract. I explained what Clause 13 was.

Q. And you did not talk to the boys?

A. No; I did not mention "Pictorial Review" at all, I had no occasion to. He did not know anything about "Pictorial Review," and I did not mention it.

Q. Who did you talk to? What type of men did you tell?

A. I didn't tell anybody. They asked me.

Q. Who asked you?

A. Well, Walter Snyder asked me about it. I said, "You know as much about it as I do. You have been in the game as long as I have."

Q. Who else?

A. Koppleman, of New Haven; Silverstein, of Providence; Newman, of Stamford. I have finished.

Q. That is, that you recall?

A. That is all I recollect.

Q. There were some others, were there not?

A. There may have been some others that mentioned it in a general way, but were not interested enough to find out what it was about. There may have been; I do not recall.

Q. Now, these instructions to you, however, in the record, as my undestanding is——

A. There were no instructions. There was a copy of the letter—no instructions.

Q. There were instructions to district agents, were there not?

A. It was a copy of a letter.

Q. It had reference to certain groups of magazines?

A. You are referring to a letter?

Q. These instructions, according to my recollection, were definite to you that you were to tell these people in unmistakable terms——

MR. WELCH: The bulletins are in the record, so cannot you refer to one?

MR. DALY: I will.

THE WITNESS: If the agents asked me whether they could take it or not, I referred them to Philadelphia.

MR. DALY: Wait a minute until I see what this bulletin is.

By Mr. Daly:

Q. Now, these people that you say would come and ask about handling these other papers, or the "Pictorial Review," did they not ask about "Every Week," too?

A. No; there were not any of them interested in that.

Q. Now, then, they really wanted to handle it? That was the reason they asked you, was it not?

A. I do not know. They ask about lots of things that they don't want to do.

Q. Don't go on that way. Just answer the question.

Mr. Milburn: How does he know what they wanted to do?

By Mr. Daly:

Q. What did they say to you?

A. I will answer your question. Mr. Koppleman, of New Haven, for instance, asked me about it. He had already turned down the proposition, but he was asking questions. Henry Baumgartner, of Woodbury, asked me about it. He was not interested. Another man did, too. Snyder, of Bridgeport, apparently didn't want it.

Q. Not apparently, but did he say he wanted it or not?

A. He told me he did not want it; there wasn't anything in it.

Q. Yet they came and asked you about it?

A. Everybody was talking about it.

Q. Whom do you mean by everybody?

A. Those big agents. The "Pictorial" roadmen were in to them almost every week.

Q. Trying to have them take on the "Pictorial Review"; is not that right?

A. That is the idea.

Q. Now, I am calling your attention again to that letter which you received which went to a lot of district agents. It is on page 2067 of the record, and is "Commission's Exhibit No. 194" in this case. It states this: "Any such district agent you may find—referring to these agents who are in touch with these other papers—tell him in unmistakable terms that he may either continue as district agent for our publications, with the accompanying privileges, by discontinuing any arrangements to wholesale any one of this group, or that if he continues wholesaling any one of this group, directly or indirectly, we shall, if necessary, transfer our agency.'

Did you follow our those instructions?

A. Those agents were not handling those other groups, so I did not have to tell it to them.

Q. None of the thirty-one?

A. Well, I told you Mr. Malloy was, and he gave it up himself.

Q. But a number were asked about it, were they not, to handle other publications?

A. Oh, yes; they were asked to handle it.

Q. Then, you told them what you have stated?

A. I told them to write to Philadelphia and find out.

MR. DALY: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. You have received in the course of your work for the company different bulletins?

A. Yes, sir.

Q. As to how to handle different classes of agents?

A. Yes, sir; receive them regularly.

Q. And the final source of all authority is Philadelphia?

A. Philadelphia.

Q. You referred to Meriden. Is there any other magazine wholesaler in Meriden than your man?

A. Mr. Lang is a wholesaler.

Q. That is a branch of the News Company?

A. New Haven ships into it.

Q. Was there any other magazine wholesaler?

A. Not in Meriden—Lang and Malloy.

Q. Give me the names of the four towns where the Curtis agent is the only man?

A. Milford, Conn.

Q. That is one.

A. Sabloff & Wolfson.

Q. The next one?

A. Ansonia, Conn., Henry Jordon.

Q. The next one?

A. Seymour, Conn., E. H. Ralston.

Q. The last one?

A. Rockville, Conn.

Q. Who is the agent there?

A. F. H. Randall.

Q. Are all those small towns?

A. All small towns.

Q. You also spoke of South Norwalk. Is there a wholesaler there, other than our wholesaler?

A. South Norwalk and Norwalk are really one and the same town. It is the same as Philadelphia and West Philadelphia. It runs one street right out. One part of it is called Norwalk and the other part South Norwalk.

Q. Who are the magazine wholesalers in Norwalk?

A. Benedict News Company.

Q. Is that a local concern?

A. A local concern.

Q. Has nothing to do with the American News Company?

A. No.

Q. Then we have an agent?

A. We have an agent.

Q. Danbury. You said there were Cuff and Canfield.

A. Cuff & Canfield, and the Crowell agent, Andrew Stelzle.

Q. You referred to Stamford.

A. Stamford, Conn., is the Stamford News Company, a local concern, wholesaler of the Hearst group and various other ones I named, and Jack Newman, our agent.

Q. And Torrington, there are the Reynolds News Company?

A. The Reynolds News Company and Mekitis Brothers, and another fellow wholesales the "New York World" there, Clark.

Q. You, Mr. Kelly, have made a study of your district, town by town, have you not?

A. Yes, sir.

Q. You made these reports that you handed to Mr. Douglas?

A. I did.

Q. And you can give your own information here now, either right off the bat, or with refreshing your recollection by the report on a given town, the situation with reference to every wholesaler?

A. Yes; I can practically name it verbatim, with one or two exceptions, or by looking up.

Q. And your reports as you rendered them to Mr. Douglas showed what wholesalers might be acting for Pictorial" or for Crowell or for the other magazines?

A. It did.

Q. You listed the magazines, so far as you could find what each one was getting?

A. Yes, sir.

Q. Then you listed the newspapers?

A. Yes, sir.

Q. You said in your testimony that you had found out that the "Pictorial" was being wholesaled in Meriden by a man called Smith, and you were asked by Mr. Daly if you got this information during the course of the specific investigation you referred to. Did you get it during the investigation or beforehand?

A. Beforehand. He asked me that, and I think I told him.

Q. But you have visited these towns all during the course of your duties, month after month?

A. Yes, sir; right along, the year around for the last several years.

Q. For the last several years?

A. Yes, sir.

Q. You made a specific investigation within the last three months for the purposes of these reports?

A. I did.

MR. MILBURN: I think that is all.

MR. DALY: That is all, sir.

MR. MILBURN: Mr. Clay.

(Witness excused.)

---

LOUIS E. CLAY was called as a witness on behalf of the respondents, and, being first duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Clay, by whom are you employed?

A. The Curtis Publishing Company.

Q. In what capacity?

A. As superintendent for northern New England, embracing Maine, New Hampshire and Vermont, and eleven or twelve cities in northeastern Massachusetts.

Q. Will you outline some of your principal cities? How many cities do you cover?

A. I cover a total of fifty-seven cities and small towns. In speaking of the small towns, there are a few of my district agents who have large sub-contracts covering adjacent small villages.

Q. What are the principal cities?

A. Why, taking in Maine, Portland, Bangor, Lewiston, Waterville. New Hampshire, Manchester, Concord, Nashua. Vermont, Burlington, Rutland, Bennington, Brattleboro. In Massachusetts, Lowell, Lawrence, Haverhill, Gloucester—I can give you the entire list if you want to go through it categorically.

Q. I want to ask for that, but you cover every town?

A. Yes, sir.

Q. You cover any of the towns in that locality where the Curtis Company maintains a district agency?

A. I do.

Q. Your duty is to supervise these district agents?

A. It is.

Q. How long have you been in that district?

A. Since the first of July, 1916.

Q. And prior to that what were you doing.

A. I was for six months in charge of southeastern Ohio and West Virginia territory.

Q. How long have you been with the Curtis people?

A. Since the middle—about the 13th of July, 1910, on the salaried staff.

Q. And were either in this kind of an assignment or attached to the staff?

A. Attached to the staff; yes, sir.

Q. The sales staff?

A. The sales staff, yes, only.

Q. Have you visited all—during the time you had

been in charge of this district—all of the towns in your district where there is a district agent and an agent?

A. Since I had charge of the district, I made a complete—several complete trips over the territory, visiting each town and city.

Q. Interviewed the agents?

A. Interviewed the agents.

Q. And recently have you, pursuant to instructions from Mr. Douglas, made a specific investigation as to how many wholesalers there are in each town, what they carry, what our district agents carry in the way of magazines, who the newspaper wholesalers are?

A. I have done so.

Q. And how many of them handle the Curtis magazines only, and those who handle others, whether they first took on the Curtis magazines?

A. The investigation embraces those facts.

Q. And other magazines?

A. And other magazines.

Q. Did you report to Mr. Douglas, town by town?

A. I did.

Q. You reported town by town?

A. Town by town; yes, sir.

Q. In making the investigation, town by town, what did you do?

A. With reference to the wholesalers and to the magazines handled by our district agent and other wholesalers, you wish information?

Q. Yes; just what did you do when you got to the town?

A. Why, various methods I adopted. In some cases I interviewed boys and dealers. In some cases I interviewed the circulation managers of local newspapers, to make sure that my information was correct—the information that I had obtained from other sources. I interviewed district agents and the whole-

salers. I would not say that I used all of these methods in each individual town, but all methods were used. My idea was to make an accurate check and accurately report the conditions.

Q. Is fifty-six the right number?

A. Cities and towns.

Q. Cities and towns?

A. Fifty-seven, I believe.

Q. In fifty-seven cities or towns, do you know in how many of them there is more than one wholesaler, and I am not counting as a wholesaler in asking that question the man who handles "Pictorial" or Crowell only?

A. You wish the man who handles only "Pictorial" or Crowell eliminated?

Q. Eliminated; that is right.

A. Twenty-four.

Q. Tell me what the twenty-four are?

A. The twenty-four towns?

Q. Yes—no; don't give me their names. You mean to say in twenty-four towns there are more than one wholesaler?

A. Let us get this straight. I will make my statement in another way. In the twenty-four towns there is only one wholesaler, eliminating the News Company and eliminating any one who handles simply "Pictorial" or the Crowell. Does that answer it fully?

Q. That is what I want, and in some of these towns there are, as you know—there is the American News Company service, is there not?

A. Yes, sir.

Q. And in some of them the "Pictorial" or "Every Week" or Crowell people have established agents?

A. Yes, sir.

Q. How many of your district agents handle only the Curtis publications?

A. Twenty.

Q. How many of them, if you know, began their magazine wholesale business with the Curtis publications?

A. I think I am accurate in stating that either nineteen or twenty reported commenced their magazine wholesale activities with the Curtis. No; I have got those figures mixed. I am wrong again on that. All but six of our wholesalers were started in the magazine wholesaling business with our publications.

MR. SPIESS: I did not quite get that answer. All but six what?

THE WITNESS: All but six.

MR. SPIESS: How many?

THE WITNESS: I have fifty-seven cities and towns, covered by fifty agents under contract. Out of those fifty agents under contract, all but six were started in the magazine wholesale business by taking on our wholesale agency first.

By MR. MILBURN:

Q. Are any of your agents boys—district agents?

A. Yes, sir.

Q. About how many?

A. I have eleven.

Q. What other classes of people—from what other classes are your agents drawn?

A. Why, I have seven or eight who might be classified as wholesale magazine distributors; five or six druggists; some thirteen or fourteen who would be classified as news dealers, with possibly other lines on the side—other merchandise on the side, and the others——

By MR. SPIESS:

Q. How many others?

A. About ten or twelve others to make up the fifty, sir, would be merchants in some line of business —some other lines of business.

By Mr. Milburn:

Q. In that district, have you co-operated with the agents in establishing their staffs of boys?

A. I have done my best to, yes, sir.

Q. What activities have you undertaken in that line?

A. Well, the activities in establishing or adding to a boys staff are many and varied. I have personally visited school superintendents, Y. M. C. A. boys secretaries and others for lists of boys. I have used "Boy Wanted" advertising; I have co-operated with the district agents in assisting them in lining up, in making prize offers; have interviewed principals and instructors in the schools. I have also called meetings of the boys, making it profitable for them to assist me—that is, the old boys who are working, to assist me in bringing in recruits.

Q. Where do you call those meetings?

A. Sometimes in the hotel, sometimes the Y. M. C. A., sometimes at the office of the district agent. Usually in Y. M. C. A. towns, at the local Y. M. C. A.

Q. You have found a lot of co-operation with the Y. M. C. A.?

A. I have never been turned down yet. I will also say that I have tried to co-operate further by making the boy force permanent, by doing a good deal of work among the parents of the boys who are interested.

Q. Was this investigation that I asked you about, which you made for Mr. Douglas, recent?

A. Yes, sir.

Q. As a matter of fact, you have devoted all of your activities to that for some time?

A. Quite a little for some time.

Mr. Milburn: That is all.

Examiner Moore: Proceed with the cross-examination.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. Now, you have testified that you visited fifty-seven cities and towns in which there were fifty district agents, so-called of the Curtis Company; is that correct?

A. Yes, sir.

Q. Explain now how fifty agents would cover fifty-seven towns?

A. You want an explanation for each of the seven additional?

Q. No.

A. Well, we will take, for instance, the two adjacent cities of Biddeford and Saco, Maine. We have one agent who controls both cities, holding the contracts for each place. Bangor, in Maine, our agent there takes care of the small town or village of Brewer, just across the river, and also of Orino, a short distance on the trolley line. That accounts for the apparent discrepancy.

Q. When did you finish this investigation?

A. Just what investigation do you refer to?

Q. This one you testified about.

A. Well, the investigation—I don't know whether you would term it perhaps an investigation or a series of investigations.

Q. Well, I think you testified that under instructions from Mr. Douglas, you proceeded to make this investigation.

A. Yes; I made investigations regarding the magazine and newspaper wholesalers' conditions, and also regarding what magazines were being wholesaled by our representatives. These investigations were completed, I should say, three to four weeks ago, sir.

Q. And this is the investigation now that you have been testifying about?

A. Yes, sir.

Q. Now, you testified that in twenty-four out of these fifty-seven towns, there is only one wholesaler; is that correct?

A. Not considering the News Company. That is the branches of the American News Company and where a second wholesaler simply handles the "Pictorial" or "Every Week."

Q. And that in twenty of these towns, the only wholesaler there is the Curtis representative?

A. Yes.

Q. Now, how are the magazines of other publishers distributed in those towns?

A. Well, in the majority of the towns, sir, they are distributed——

Q. No, I am speaking about those twenty towns.

A. Yes; I am speaking in the majority of those twenty—I am speaking with reference to the twenty, sir.

Q. All right.

A. In the majority of those twenty towns, the bulk of the magazines are distributed through the branches of the American News Company, either coming from the New England News Company at Boston, the Eastern News Company at Portland, Maine, or coming from Troy, New York, into Northern Vermont; I think also Southern Vermont has some coming up from Springfield, although I am not quite positive; also there are a few of the retail dealers who draw certain magazines direct for retail sale only. Where there is more than one dealer in a town, there may be two or three drawing direct from the publishers, or claiming to draw that way. Where there is only one in a town, frequently one does that.

Q. In those twenty towns, are there any branch houses of the American News Company?

A. Not located directly in the towns.

Q. How do they get their magazines in there?

A. By express or mail, I think; but in Maine, New Hampshire and Vermont, by express or mail, but I think in Massachusetts there are a few towns quite near to Boston where the News Company wagon or truck drives through.

Q. Do you know whether or not the retailers pay for that hauling by the American News Company?

A. I have no absolute knowledge, no, sir; although I have a general impression that they do, but I could not say.

Q. Now, in those twenty towns that you speak of, what is the largest population of any town out of those twenty?

A. Well, I would not want to guarantee my answer, without reference to the list, to be correct, but I think it is some ten to twelve thousand population.

Q. That would be the largest in the twenty?

A. I think so; yes, sir.

Q. Could you give me about the smallest population of any one of those twenty towns, approximately?

A. I think about twelve to fourteen hundred is the smallest population, sir.

Q. How long have you been supervising for the Curtis Publishing Company, did you say?

A. In this particular territory?

Q. Well, in any territory.

A. Why, taking the total amount of time given to work on the road as supervisor, some four and one-half to five years.

Q. Can you tell me what agent in anyone of those twenty towns you speak of, has the highest circulation of Curtis publications?

A. I don't quite sense your question, whether you mean the number of copies——

Q. Number of copies. What agent in those twenty towns sells the largest number of Curtis publications?

A. I can give you that, if you will bear with me for a moment, sir. I think I can give you the information.

Q. All right; take your time.

A. I think Brunswick, Maine, shows the largest circulation among those twenty towns.

Q. What is his name?

A. F. W. Chandler & Sons.

Q. Do they handle any newspapers?

A. Yes, sir.

Q. Wholesale them?

A. Yes, sir.

Q. What newspapers do they wholesale?

A. The Boston and the Portland dailies.

Q. Do you know what equipment he has for distributing magazines and newspapers?

A. Why, in his city conditions are such that the greater part of his wholesale work is done by boys, who come to his place of business. His equipment there consists of using two or three of these boys to supply two or three stores who are located a short distance away from his place of business. He has no real horse and wagon equipment, to my knowledge.

Q. What boys are these?

A. That he uses?

Q. Yes.

A. I think he uses his newspaper boys to make the delivery of his papers—boys who handle the newspapers.

Q. Has he any Curtis boys?

A. Yes, sir.

Q. How many Curtis boys has he, do you know?

A. I could not give you, without referring to my list, sir.

Q. Do you know whether any of these news boys are Curtis boys, to your own knowledge?

A. I know that some of his newsboys sell Curtis magazines. I would not call them Curtis boys in my definition of the term, sir.

Q. Where do they get the Curtis publications from?

A. From Mr. Chandler.

Q. You are familiar with the contract, are you not?

A. Yes, sir.

Q. Well, are you not familiar with that part of the contract with the said Curtis Company, which says he must not supply dealers or sub-dealers who handle the publications of other—let us get that straight now. I am referring now to the reports. I understand now, you are in a town where there isn't any other wholesaler. I will withdraw that. Strike it out. Now, you say that in six of the fifty, they started in the magazine wholesale business by taking on the Curtis agency.

MR. WELCH: Six out of fifty-eight.

THE WITNESS: All but six.

MR. WELCH: All but six out of the fifty-eight.

By MR. SPIESS:

Q. Were started by the Curtis Company in handling magazines, is that correct?

A. Yes, sir.

Q. Now, that would be forty-four?

A. Yes.

Q. Now, of the forty-four who were first started in the magazine business by the Curtis Company, how many of them are handling other magazines?

A. You mean purely from a wholesale standpoint, sir? You are not speaking with reference to the retail end of it?

Q. Wholesale standpoint.

A. I am mighty sorry that I haven't forcast just the information you want, so as to be able to give it to you without reference to my lists so many times, sir.

MR. MILBURN: May I ask to have that question repeated.

(The question was repeated by the reporter, as above recorded.)

THE WITNESS: Without reference to exact records, I should say that fifty per cent. are handling other magazines of the forty-four.

By MR. SPIESS:

Q. That would be twenty-two. Do you know what magazines they are wholesaling, outside of the Curtis magazines?

A. I cannot state that offhand for each individual case. I have my records, and by reference to my records I could tell you for any specific——

Q. Give in a general way just what are those wholesalers distributing?

A. Well, they will distribute the Hearst line, Munsey's, the Warner, the "Literary Digest," the "Moving Picture" magazines. A few of them distribute magazines that they obtain—they obtain a general line of magazines from the branch of the American News Company, and redistribute to small dealers.

Q. Now, how many of those agents wholesale newspapers?

A. Of just the forty-four or of the fifty per cent.?

Q. No, of the fifty-eight.

A. Of the total number?

Q. Yes.

A. How many distribute wholesale newspapers?

Q. Yes, sir.

A. Somewheres from fifty to sixty per cent. of them, sir.

Q. Now, how many of that number were wholesaling newspapers before they wholesaled Curtis magazines?

A. I should say that of the fifty to sixty per cent., that one-half of them were wholesaling newspapers before they became affiliated with the Curtis.

Q. One-half of the sixty per cent.?

A. One-half of the sixty per cent., yes, sir.

Q. That would be approximately about thirty per cent. of the fifty?

A. Of the total; yes, sir.

Q. Do you know of any of these fifty who ever wholesaled Crowell publications?

A. Who ever wholesaled Crowell publications?

Q. Yes.

A. Yes, sir.

Q. Who are they?

A. Our agent in Salem, Massachusetts.

Q. What is his name?

A. C. W. Goldsmith & Son; Newburyport News Company, of Newburyport, Massachusetts.

Q. Who is that?

A. Newburyport News Company. N. Arakalian is the manager and proprietor. I think that completes for the Crowell publications.

Q. Only two out of the fifty that you have come across. Is Mr. Goldsmith now wholesaling Crowell publications?

A. Up to within a month. I have no information since three or four weeks ago, sir.

Q. Was he then?

A. Yes, sir.

Q. Was the Newburyport Company wholesaling?

A. Just prior to that time, say four or five weeks ago.

Q. You do not know whether they have stopped, do you?

A. No, sir; have no information on that subject.

Q. Have you been making any of these new contracts with these district agents up there?

A. Yes, sir.

Q. Have you made a new contract with Mr. Goldsmith?

A. No, sir.

Q. Have you aproached him to make a new contract?

A. To make a new contract?

Q. Yes; one of these new contracts—district agency agreements.

A. Yes, sir.

Q. Have you approached any of the other fifty to make any?

A. To make new contracts?

Q. Yes.

A. Yes, sir.

Q. How many out of the fifty have you approached?

A. Why, I think out of fifty, we have some forty-four or forty-five in that territory under the new form of the contract.

Q. Can you say why Mr. Goldsmith has not been approached?

A. I have not had the opportunity to get into Salem to approach him regarding any change in our existing arrangements.

Q. You were in Salem on this investigation, were you not?

A. Certainly.

Q. How long were you in Salem?

A. Why, I cannot give you the exact time, but I should say perhaps not more than four or five hours.

Q. Where did you go from Salem, after you made this investigation?

A. I can't recall just where I did go, or whether I went into the Boston office, or whether I took up some other town, sir.

Q. Did you have any instructions not to see Mr. Goldsmith about changing the contract—changing his agency?

A. I do not recall any, sir.

Q. Would you not know whether you had or not?

A. Why, I will admit that I should know, but I might forget, but I do not recall that instructions were ever issued to me not to go to Salem to see Mr. Goldsmith about a new contract; possibly there may have been such instructions issued.

Q. You know that Mr. Goldsmith testified in this proceeding in Boston, do you not?

A. Yes, sir.

Q. Was anything said to you by any officer of the Curtis Publishing Company not to go to see Mr. Goldsmith?

A. Why, in talking the matter over—I, of course, worked under the jurisdiction of the Boston office—in talking the general situation over with Mr. Flanders, of the Boston branch, the manager of the Boston branch, he and I came to an agreement to work preparatory so as to clean up the furthest out and most difficult to reach—get the harder sections out of the way first, leaving naturally northeastern Massachusetts, the southern portion of my territory, until the last. Therefore, it brought Salem at the bottom of the list.

Q. And it takes some time to make one of these agency agreements?

A. It takes some time?

Q. Does it not?

A. The new form of contract——

Q. Yes—to change over from the old to the new form of contract?

A. It takes a very short time.

Q. When you were in Salem, four or five hours, will you explain to me why it was you were so pushed for time you could not stop for a little talk with Mr. Goldsmith?

A. I did not answer that I did not stop for a short time with Mr. Goldsmith. I saw Mr. Goldsmith, but I did not approach him on the contract.

Q. Why?

A. I was there for another purpose, and when I am concentrating on another purpose I do not let anything interfere with it.

Q. When you were visiting these fifty-seven towns, did you change any of the old contracts to the new ones, and if so, how many?

A. When I first started—I canot give you an exact answer on that, because when I first started making the investigation, I did not touch the new form of contract.

Q. After you started making the investigation——

A. After we started making the investigations, I commenced along the latter part of last year in making the new contracts and completing the investigation as I went along.

Q. When did you commence making new contracts?

A. Along about the latter part of last year.

Q. When did you begin making this investigation?

A. Oh, possibly a few weeks prior to that—say a matter of——

Q. When did you say you finished this investigation, about three weeks ago?

A. Something like that—three or four weeks ago.

Q. And you have had no time to take up with these other agents, these six other agents in this territory that you spoke about—this new form of contract—is that it?

A. That is it exactly.

Q. You have testified that you had about seven boys in your territory that act as district agents?

A. Yes, sir.

Q. Can you give me the largest town or city in which one of these boys is a district agent, and the population of it?

A. Manchester, New Hampshire. The population of the town slips my mind—75,000. That is the last Government figure.

Q. Seventy-five thousand?

A. Yes.

Q. Does this boy handle anything else besides Curtis publications?

A. No, sir.

Q. How old is this boy?

A. I think he is around seventeen—about seventeen.

Q. Has he any equipment?

A. He handles the boy business. The boys come to him for their copies.

Q. He only handles the boys?

A. Yes, sir.

Q. Is he a school boy?

A. He is a school boy; yes, sir—a high school boy.

Q. Who serves the news dealers in that town?

A. We have a firm by the name of Black Brothers, who serve the news dealers.

Q. What do they wholesale—what other magazines?

A. They wholesale all the Hearst publications; that is, the newspapers, the "Boston American" and the Hearst line of magazines.

Q. He does not sell any boys at all, does he?

A. Not on the Curtis magazines, with the possible exception of one or two corner boys, which, in that case, we list with the adults.

Q. You say that through advertising and prizes and various other things, and getting in touch with teachers and parents, you obtain Curtis boys for these district agents?

A. Yes, sir.

Q. That requires considerable work, does it not?

A. Quite a bit.

Q. And it is pretty difficult to get boys, is it not?

A. Well, yes and no, and still, on the whole, I have not found it very difficult.

Q. You do not find it very difficult to get boys?

A. No, sir; the main thing is to find out just what is the proper method to fit the town. If you go at it the wrong way, you will have a hard time; if it is a town that the boys do not respond to advertisement, you have a difficult time.

Q. And you would change your method, then?

A. Yes, sir.

Q. You are really an expert in getting these boys?

A. I work hard enough to get them, but I would not want to claim credit for being an expert.

Q. Well, you understand the method, I mean?

A. I think I do.

Q. Now, you say you go to see the parents of these boys?

A. I do.

Q. Can you give me any particular town of these fifty-seven, when you have gone to see the parents of the boys, and to what extent?

A. Within the past six or eight months, no; I have not; but previously to that, in almost every town that I have visited—which embraces all of the towns in my territory, I have endeavored to reach as many of the parents of the boys as I possibly could. The number in each town, of the specific towns, I cannot give you off-hand, but my records are on file at home, or in the files of the Curtis Publishing Company, which will give you, or would give me, for your information, the number of parent calls for each town, but that information I have not on hand.

Q. Are these the parents of boys who are already selling Curtis publications?

A. In the majority of instances; yes, sir. In some cases they are the parents of boys I have listed to take up.

Q. When you see the parents of these boys selling Curtis publications, what do you take up with the parents?

A. The method of approach I use with the parents—I place emphasis upon the business training that we give the boys.

Q. Do you understand what that training is?

A. Yes, sir.

Q. What is that training?

A. Training in scientific salesmanship adapted to boy intelligence and advancement.

Q. Can you explain what scientific salesmanship is?

A. Yes.

Q. What is it?

A. Making the other fellow think as I do.

Q. How do you think about it?

MR. MILBURN: That is his definition of it.

MR. SPIESS: That is your definition of it?

THE WITNESS: Yes, sir; if I can get him to agree that my commodity is all I claim for it, I have his money, and he has got what I have to sell.

By MR. SPIESS:

Q. Your interpretation of that is that in order that these boys can sell your magazines, they must go in and convince these men that the Curtis magazine is all that this boy thinks about it?

A. No; no boy does that at first; you have to teach them.

Q. Does the Curtis boy go in to a prospective purchaser and say, "Here is a magazine that contains certain qualities"?

A. He does, absolutely, and, brother man, the highest compliment I can have paid me is a compliment paid me a short time ago from a parent——

MR. SPIESS: I do not care about that.

MR. DALY: You can strike that out.

EXAMINER MOORE: Does not the magazine sell itself pretty well?

THE WITNESS: Very well. We will admit that the name of "The Saturday Evening Post," sir, is pretty well known, but I do not think it would be as well known as it is at the present stage of the game, unless it were for the activities of several thousand "Post" boys. They are a pretty good medium.

By MR. SPIESS:

Q. Is it or is it not a fact that the Curtis boy is instructed to obtain steady customers, and that most of his sales are made from house to house?

A. That is our endeavor, to coach the boys to build up a steady house-to-house customer.

Q. Is not that the fact, that that is the largest percentage of the Curtis boy sales—house-to-house steady customers?

A. It is.

Q. In those cases, a boy would not have to stop on the doorstep and laud the Curtis publications, in order to make a sale?

A. The first time he would.

Q. But after that he would not have to do it?

A. He might not each week unless the customer, after seeing the boy seven or eight times says, "Son, I do not want to see you again"—then he would have to do it all over again in order to convince him that this magazine is all that he says it is.

Q. Does that happen very often?

A. It does not in every instance, but in about 25 per cent. of the cases it does.

Q. They do not want the magazine?

A. They may want to change their reading matter.

Q. In 25 per cent. of the cases, the people want to change—people who have been buying Curtis magazines from the boys want to change their reading matter to some other magazine—is that your experience?

A. Until——

Q. Just answer that question. Has that been your experience?

A. They fancy that they do; yes, sir.

Q. They fancy they do?

A. Yes.

EXAMINER MOORE: Do the district agents go along with the boys to solicit subscriptions at any time?

A. To solicit orders—to assist the boys?

EXAMINER MOORE: Yes.

A. Some of the youths do. I do not think the adult district agents make a practice of that generally.

EXAMINER MOORE: Then a part of the subscriptions is secured by the district agents rather than the boys?

A. I do not think instances of that sort are very common—not in my territory.

EXAMINER MOORE: The boy gets all of them himself?

A. Yes; the boy gets all of them himself.

By MR. SPIESS:

Q. Now, are there any big wholesalers in your territory?

A. Of magazines and newspapers, or just magazines?

Q. Of magazines?

A. Of magazines; yes, sir.

Q. Approximately, out of these fifty-seven towns, how many large wholesalers are there?

A. It is a bit difficult to answer, for the simple reason that my towns are perhaps not quite as large, from the population standpoint, as the run of towns throughout the country, and so my answer will be that these wholesalers are, for that country, large men in that particular territory. By comparison with the rest of the territory they might not be considered such.

There are six or seven good-sized wholesalers of magazines.

Q. Can you name them?

A. There is the Goldsmith Company, of Salem, Mass.; there is Mr. Katze, of Lowell; the Fox Brothers, of Lawrence, Mass.; Moses Sclacsmam, of Haverhill, Mass.; the J. W. Peterson Company, of Portland; August Olson, of Rutland, Vermont—I might also add two in Manchester, New Hampshire, the Black Brothers, our representatives, and the City News Company. The manager's name has slipped my memory for the instant.

Q. That is not a branch of the American News Company, is it?

A. No; the City News Company——

Q. Where is that?

A. That is in Manchester, New Hampshire.

MR. FLANDERS: The manager's name is Zolinsky.

By MR. SPIESS:

Q. What others?

A. I think that completes the list.

Q. Now, these fifty agents, in these fifty-seven towns—did any of them ever handle the "Pictorial Review" wholesale?

A. Yes, sir.

Q. Will you give me the names of those who did?

A. Oh, you mean who did, or do, or did and do not now?

Q. Just give me the names of those who did.

A. I see—I think I had better take those by states and make sure I get them all. They are the S. A. Pollister Company, of Auburn, Maine.

Q. Pollister?

A. Yes, sir.

MR. WELCH: Of what place in Maine?

1701

When we started to sell independently, we did so because The Saturday Evening Post was almost the only weekly that amounted to anything in the field. We had to educate the public into buying any weekly publication at all. We couldn't do it through the news company and we did it independently because it was the only way we could see of accomplishing the result.

It would surprise our district agents who have been 'doped' as aforesaid, to know how much money it costs us to develop the organization and to put it on its feet. Any other publisher would have to do the same thing, and we feel morally certain, whatever the apparent situation may be at this minute, that inside of a few months our district agents will realize that what I say about there being a lot of smoke but very little fire is the truth.

E. T. TOBIN.

M. E. Douglas.

---

Bulletin No. 289 Date 4/2/17

SUBJECT: SMOKE WITH BUT LITTLE REAL FIRE.

Received this date

Superintendent."

By MR. DALY:

Q. To what extent does the question of compensation move you in exercising your powers under Clause 13 of this contract?

A. Only to the extent of securing for us the fair amount of time and effort of a district agent, according to the duties and obligations assumed by him.

MR. DALY: Will you read that answer?

(The answer was repeated by the reporter as above recorded.)

MR. WELCH: Read the question.

(The question was repeated by the reporter as above reported.)

MR. WELCH: Perhaps if you will explain what you mean by "compensation"?

MR. DALY: Magazine circulation.

By MR. DALY:

Q. I will call your attention to this, Mr. Douglas:

MR. WELCH: Let the other remain in?

MR. DALY: Yes.

By MR. DALY:

Q. (Continuing) That you would not permit dealers to take on "Pictorial Review," except in a few instances, and also that the same facts apply to "Every Week," and to some extent to "Collier's Weekly." Now, then, why did you confine yourself to those papers alone? You have testified that "Pictorial Review" is a competitor?

A. We have not raised any more objections in the "Collier's" case than we have in other cases.

Q. Now, then, I ask you that question again: To what extent does this competitive condition move you in refusing permission to dealers to take on these papers?

A. So far as the matter of how much circulation these other publishers get, not at all. The more they get the more we will get. Our circulation has grown with the increase in the habit of reading magazines generally.

MR. DALY: Strike that out.

MR. WELCH: As to their circulation as competitors, how far are you guided in your action under the clause 13; is not that the question?

MR. SPIESS: No; that is not it at all.

MR. WELCH: I would like to know what it is.

MR. SPIESS: Well, read the question.

(The question was repeated by the reporter as above recorded.)

MR. WELCH: What is his answer? I want to know what is stricken out and what is in.

By MR. DALY:

Q. Now, then, I show you a copy of a letter dated March 31st, 1917, from the sales division, M. E. Douglas, Manager, addressed to Mr. Thomas Manuel, 414 Crocket Street, Shreveport, Louisiana, and ask you if that letter was sent?

A. I think that letter is already in the record, yes.

Q. That was sent?

A. Yes.

MR. DALY: Now, I offer this letter. I will show it, first, to counsel. If it is in the record, you need not put it in.

MR. SPIESS: I do not think it is in the record.

MR. WELCH: We have no objection at all.

MR. DALY: We offer this letter.

EXAMINER MOORE: The letter is received in evidence, without objection.

(The letter referred to was thereupon received in evidence and marked by the stenographer. "Commission's Exhibit No. 197," and is as follows:)

COMMISSION'S EXHIBIT No. 197.

"THE CURTIS PUBLISHING COMPANY
Independence Square,
Philadelphia.
The Ladies' Home Journal
The Saturday Evening Post
The Country Gentleman
Sales Division
Circulation Department
M. E. Douglas, Manager.

March 31, 1917.

Mr. Thomas Manuel,
414 Crocket Street,
Shreveport, Louisiana.

Dear Mr. Manuel:

Our mutual friend, yours and mine, Mr. Tobin,

has been discussing with us your letter dated March 21st.

We are glad to see you sell, at retail, as many copies as you can of The Pictorial. That is all right.

But we have good reason for preferring that our District Agent be not a wholesale agent for the Pictorial Review also. If you will think on this you will perceive that we make the point in your real interest.

We are desirous of co-operating with you in every way we can and the contractual clause previously referred to is a token of our fair dealing as well as a badge of our self-respect.

We are for everything that makes for permanent mutual advantage for you and for us; and there are numerous publications which we should be quite willing for you to wholesale if by doing so you could increase your income without disadvantage to us.

But there is a reason why this does not apply to The Pictorial Review. In the first place, the publication purports to be a competitor or potentially a competitor of THE LADIES' HOME JOURNAL.

In the second place, if you were the wholesaler the publisher of it would expect you to give him special service—service you could not give and also give similar special service to our publications. As a result, if you were to undertake to represent both publications in this way you would displease one or both and eventually lose one or both agencies.

You see the question is not one of your limiting your efforts to our publications alone. As before stated, there are numerous publications which we should be quite willing for you to handle—but not this one. You see we have no thought of dictating to you what you shall or shall not sell—not

that at all. On the contrary, there are times when all of us like to have our friends stand with us and this is one of those times when we are glad to know how many friends we have in the field.

Very truly yours,

THE CURTIS PUBLISHING COMPANY

(Signed) S. L. Coxe

*District Manager.*

MED FSH

Dictated by

(Signed) M. E. Douglas."

By MR. DALY:

Q. Now, Mr. Douglas, I call your attention to this paragraph. I will read you two paragraphs:

"We are for everything that makes for permanent mutual advantage for you and for us; and there are numerous publications which we should be quite willing for you to wholesale if by doing so you could increase your income without disadvantage to us.

"But there is a reason why this does not apply to the 'Pictorial Review.' In the first place, the publication purports to be a competitor, or potentially a competitor of 'The Ladies' Home Journall.' "

That is a full reason, is it not, for your not wanting these agents to handle the "Pictorial Review"?

A. Only as associated with this other paragraph in this same letter.

MR. WELCH: Read the other reason.

THE WITNESS: In the second place, this same letter says:

"In the second place, if you were the wholesaler the publisher of it would expect you to give him certain special service—service you could not give and also give similar special service to our publications. As a result, if you were to under-

take to represent both publications in this way, you would displease one or both."

You cannot put a quart in a pint bottle.

By Mr. Daly:

Q. Now, yesterday I asked you about what you did with reference to seeing agents about the "National Post" matter, and you said you thought you sent out a letter?

A. Yes; we did send out a letter, as I stated.

Q. Now, as a matter of fact, did you not give instructions to your roadmen with reference to that to see these agents with reference to this paper?

A. I have no recollection or knowledge of general objections in that case—in these recent cases. I don't say that nothing was done of that kind, but I have been unable to find any evidence of anything of the sort, and I have no recollection of it. I know that a number of our agents took on this other publication. I know that a number of them—some of them, at least—put up cash securities, because the other plan was an imitation of ours. I know that some of them lost the cash securities when that publication failed. Whether or not under some later adjustment that did not come to my notice, those cash securities were ever refunded to those men, I don't know. Harry Cann, our former district agent in Maryland, deposited a cash security with the Success Company, and he told us at one time it had not been returned.

Q. Now, you spoke yesterday about the financial embarrassment prior to or at the time of, or when did you know about that?

A. I think that was a matter of practical common knowledge in the magazine field about that time.

Q. At the time you sent out this letter did you know it—this letter of instructions that you testified about yesterday?

A. That went out before the company failed.

Q. But you said they were financially embarrassed at that time.

A. I said they failed for the reason that they were financially embarrassed.

Q. When did you first know about that?

A. I could not designate the time.

Q. Here is what you said, Mr. Douglas, at page 1935: "The company was unable to continue in business because of financial embarrassment." Financial embarrassment pror to or at the time of, or when with respect to this effort to get district agents? Prior to?

A. I cannot state of my own knowledge. All I can give you on that point is this.

Q. You have testified about that—that you knew about that?

A. I testified that they failed, through financial embarrassment, and that I believe was a matter of common knowledge in the magazine field.

By Mr. Welch:

Q. Was it of common knowledge, and didn't you suppose when you answered that question that financial embarrassment was prior to or at the time of its efforts to get district agents?

A. As a matter of fact, I think——

Q. No; just answer that.

A. I did not have that in mind when I answered this question, if that is what you mean. I did not have any particular time in mind.

By Mr. Daly:

Q. Do you wish to correct your statement?

A. I don't see any reason to correct it.

Mr. Welch: Just read the two questions.

A. Oh, I see what you mean. While I think it was a matter—I still think it was a matter of common

knowledge that that company was financially embarrassed before they began this effort to use our agents, but I say I am speaking from hearsay, not personal knowledge. I also think it was common knowledge in the magazine field at that time.

Q. And you knew about it in that way?

A. I could not say that I did. This matter has come—these matters have come to my attention very largely since this happened, not at the time.

By Mr. Daly:

Q. Well, you said that you did know, and now, as I understand it, you say you do not know whether you did or not. I don't understand that.

A. I say that I believed through hearsay that this was a matter of common knowledge in the magazine field, but I don't know it of my own knowledge.

Q. On page 1936 of the record you said yesterday that you had no recollection or knowledge of any such list being sent to us, or general request being made, referring to list of agents of these particular newspapers in Chicago that Mr. Scholtz had talked about?

A. Yes, sir.

Q. How far back do your records go—records of your company?

A. What do you mean, correspondence?

Q. Yes.

A. Oh, we haven't any correspondence way back there.

Q. You have none covering this period?

A. No.

Q. About how far back do you keep it, how many years back?

A. The bulk of our correspondence is thrown out within six months.

Q. Now, on page 1939 of the record—when was it you took on Joe St. Marie?

A. The first general issue wholesaled by him was the December number.

Q. In what year?

A. That would be 1917.

Q. Do you know whether Joe St. Marie had been selling the "Pictorial Review" prior to that time?

A. He had been selling the "Pictorial Review" prior to that time, but had also discontinued prior to that time, I understand.

Q. Do you know when he discontinued it?

A. I think the last issue of "Pictorial"—I am informed the last issue of "Pictorial Review" that he wholesaled was put on sale October 8th.

Q. Do you know what was done about securing his services?

A. What do you mean?

Q. How did you secure his services—was it from this application he had put in years before, and your promises that you had made?

A. He was given the agency because the previous agent was unsatisfactory and because he had previously been promised the refusal of it back as far as 1910.

Q. How long had the other agent been there—Bloom?

A. Bloom had been agent a good many years, but he had not been a satisfactory agent for a great many years. We had tried to get along with him, partly on sentimental grounds, because he had been our agent for a great many years.

Q. What did he do that was not satisfactory?

A. He was not an efficient worker. Our roadmen had to spend too much time in his town doing things it was his duty to do.

Q. He handled other magazines, did he not—Joe Marie—when you took him on?

A. I could not state positively.

Q. What did Bloom handle?

A. I could not state that positively.

Q. Now, you have testified, Mr. Douglas, that you made an investigation, and have submitted the results of it.

A. What page is that?

Q. On page 1918 you begin, I think. You state on the bottom of page 1917 that the number of district agents who were investigated by your roadmen, either personally, or by correspondence of which the result was reported to you, was 1456. Now, what district agents, as you term them, were included in that 1456—what kind of agents, as there have been different kinds of agents talked about?

A. That——

Q. I am not asking for the names of them now.

A. All kinds of district agents.

Q. State them.

A. All the district agents, up to the number of 1456. We have not recognized kinds of district agents.

Q. And how many towns did you say they covered?

A. The town data in this examination——

Q. Towns or cities?

A. The town data referred to on page 1920 was 1253 towns, but the individual study of 1456 included more than 1253 towns.

Q. Have you a list of the towns that were covered?

A. A list of the towns studied in the 1253 data, I could say, included all in the United States with the exception—all district agency towns in the United States with the exception of fifteen or twenty, the names of which I could give you.

Q. Now, the 1456——

A. The 1456——

Q. Did they cover the same towns?

A. Yes, and some additional towns in Canada.

Q. How many of these were in Canada?

A. The 1456 covered a number in Canada. I could not tell you exactly.

Q. How many were investigated in this country—1200 and something?

A. Twelve hundred and something—all of our district agents in the United States except the list of fifteen or twenty, of which I could give you the names if you desire them.

Q. Can you give us a list of the towns?

A. Not included?

Q. No; I want the towns in the United States that you investigated.

A. I could not name them offhand.

Q. Have you not the list?

A. I have a list. I can tell you roughly.

Q. I want the particular towns.

A. I have a list of the particular towns. I can read them all into the record, if you want them.

Q. Will you produce the list, and that list can go into the record.

A. A list of the names of the towns?

Q. Yes.

A. That can be done, but not today.

Q. That is what I want.

A. Yes.

Q. In addition to that I want the names of the agents that were investigated in these various towns—in these same towns. You have that list, also?

A. I have the list of the names of our agents.

Q. Of this number in the United States—whatever that is—and you will produce that for the record?

A. That can be produced.

(By agreement of counsel certain discussion was physically stricken from the record, and in lieu thereof the following inserted):

By agreement, the cross-examination of Mr. Douglas respecting matters pertaining to the in-

vestigation relating to district agency towns and district agents is adjourned until counsel for the Commission can obtain certain information which the counsel for the respondents will endeavor to furnish them, it being understood, of course, that Mr. Douglas may be further cross-examined on other special matters that may arise during the course of the proceedings.

EXAMINER MOORE: We will take a recess until 2.00 o'clock.

(Whereupon, at 1.00 o'clock P. M., a recess was taken until 2.00 o'clock P. M. of the same day.)

---

AFTER RECESS.

The hearing was resumed at 2.00 o'clock P. M., pursuant to the taking of the noon recess.

---

M. E. DOUGLAS resumed the stand and testified further as follows:

MR. MILBURN: We are not quite in accord. There may be necessity of a correction and I will just ask Mr. Douglas one or two questions.

By MR. MILBURN:

Q. Mr. Douglas, in your testimony you stated that this investigation which you have made, covered 1456 district agents?

A. Yes, sir.

Q. And you stated, I believe, that some of them were in Canada?

A. Yes.

Q. The investigation also covered 1253 towns, did it not?

A. Yes.

Q. Were those 1253 towns in the United States?

A. Yes.

Q. All of them?

A. Yes.

MR. MILBURN: We are going to interrupt Mr. Douglas's re-direct-examination and put Mr. Duff and one other witness on.

MR. DALY: Of course, reserving the right to cross-examine him, it is understood?

MR. WELCH: Oh, yes. Mr. Examiner, I have two witnesses here from out of town that I should like to call now, and break in on Mr. Douglas's examination just for the moment, to enable these gentlemen to get away this afternoon.

EXAMINER MOORE: Very well.

MR. WELCH: Mr. McInnis.

---

NORMAN K. MCINNIS was called as a witness on behalf of the respondents, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Mr. McInnis, with what concern are you connected?

A. N. W. Ayer & Son.

Q. And what is the business of N. W. Ayer & Son?

A. Advertising agents.

Q. What is your position?

A. I am in what is called the Bureau of Plans. That is not very explanatory.

Q. Well, that is immaterial. In the course of conducting the business of N. W. Ayer & Son, do you receive from time to time from various publishers, statements of the circulation of their magazines?

A. Yes, sir.

Q. Have you with you a letter dated July 18, 1917,

and a letter dated September 6, 1917, from the Pictorial Review Company with respect to their circulation?

A. Yes, sir.

Q. Will you produce those letters, please?

MR. DALY: What is the object, to contradict something that has already been put in, Mr. Welch?

MR. WELCH: Yes. I offer those in evidence, just to show the circulation and the dates.

MR. DALY: We have no objection.

(The papers referred to were thereupon received in evidence and marked by the stenographer "Respondent's Exhibits Nos. 8 and 9," and are as follows:)

RESPONDENT'S EXHIBITS NOS. 8 AND 9.

"PICTORIAL REVIEW.

New York, July 18, 1917.

Paul Block, Inc.
Advertising Directors.
N. W. Ayer & Son,
Philadelphia, Pa.
Gentlemen:

I know you are interested in the progress that is made by the various important publications, and so you will be interested to learn that Pictorial Review has now reached a circulation of 1,400,000 copies. This is exceeded by the Ladies' Home Journal alone.

I appreciate, however, that 'circulation isn't the only advertising argument' and so I hope you will do me the courtesy to glance at our next three or four issues, which are examples of the character of magazine we are publishing.

Our October issue, for instance, will have a new serial story by Kathleen Norris, many editorial pages in colors, a new strong children's department, besides the usual other features.

In November we expect to have four pages of cooking and food articles in colors among various other features.

In December we expect to have one color section alone which will comprise at least sixteen color pages, eight of which will be in four colors.

Yours very truly,

PAUL BLOCK."

---

"PICTORIAL REVIEW.

New York, September 6th, 1917.

Paul Block, Inc.
Advertising Directors.
Mr. F. W. Kurtz,
N. W. Ayer & Son,
300 Chestnut St.,
Philadelphia, Pa.
Dear Mr. Kurtz:

I hope there is a chance that we may count on Manning Bowman & Company copy for December Pictorial Review.

We are quite proud of the October issue which has International Silver copy on the back cover.

I hope you will take the time to look through this magazine because there is no question that our growth is over 1,000,000 subscriptions and nearly 500,000 newsstand circulation, is due to the fact that we put out a great magazine.

Very truly yours,

PAUL BLOCK, INC.,
*Gilbert Linn,*
Vice President."

MR. WELCH: That is all. You may cross-examine.

MR. DALY: No cross-examination.

(Witness excused.)

WILLIAM G. DUFF called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Where do you live, Mr. Duff?

A. Philadelphia.

Q. And wht is your occupation at the present time?

A. Superintendent of circulation.

Q. Of what concern?

A. Street & Smith Corporation.

Q. How long have you been in that position and connected with Street & Smith?

A. Well, thirty years is my connection; in circulation, about twenty-eight.

Q. What is the Street & Smith Corporation?

A. It is a firm, comprising two members.

Q. I mean the character of it.

A. General publishers.

Q. And what do they publish?

A. Magazines.

Q. What magazines?

A. "Popular," "Ainslee's," "Smith's," "People's," "Top Notch," "Detective Story," "Picture Play." There are seven of them, thirteen issues a month; three of them issued twice a month. One is a weekly, issued four times.

Q. Which is the weekly?

A. The "Detective Story."

Q. Which are the semi-monthlies?

A. The "Popular," "Top Notch" and "People's."

Q. Is there any monthly among those?

A. Not among those three.

Q. No; I mean among the others?

A. Yes; "Smith," "Picture Play" and "Ainslee's."

Q. Now, how long have those magazines been in existence?

A. We entered the periodical field nineteen years ago. "Ainslee's" was our first. The others have come along in due time. I can give you about the age of each.

Q. Just roughly about the age.

A. Shall I refer to the notes?

Q. Yes.

A. The "Ainslee," nineteen years ago; "Popular," fourteen years ago; "People's," twelve years ago; "Top Notch," eight years ago; "Smith's," fourteen years ago; the "Picture Play" and the "Detective Story," three years ago.

Q. How are those magazines circulated at the present time to the public?

A. Distributed and circulated through the American News Company of New York, and its branches throughout the United States.

Q. Have they always been circulated and distributed through the American News Company?

A. Oh, yes; from the beginning.

Q. Have you any figures there, showing the circulation of each one of those magazines?

A. Yes, sir.

MR. DALY: Now, just wait there. I cannot see what the circulation of the magazines that are not shown to be competing magazines with the magazines that are competitors in this case, and have been shown to be competitors, could have to do with an inquiry like this, and I object to that.

MR. WELCH: Mr. Examiner, the question has been raised in this case as to the efficiency of the American News Company as a distributing agent.

It seems to me that it is proper to show in connection with the publication by a publishing house of such well-known magazines as these, what the circulation is; how it has been built up and what it originally started at, practically.

EXAMINER MOORE: Anything further, Mr. Daly?

MR. DALY: No.

EXAMINER MOORE: The objection is overruled.

A. Why, we ordinarily start a publication new at a hundred thousand. In one or two instances, I believe, it has begun at 150,000.

By MR. DALY:

Q. What was that statement? I could not quite hear you.

A. In issuing a new publication, usually the edition will be a hundred thousand. In one or two instances in our own house it has been 150,000 to start. In the case of the oldest magazine, "Ainslee's," at the present time, and our editions just now are battened down, in the interest of conservation—at the present time we are issuing 231,000 a month. That shows an increase of almost 150 per cent. in eighteen years. In the case of the next oldest, the "Popular Magazine," we at the present time are issuing 373,000 each issue, or 746,000 a month. That has grown in fourteen years from 100,000. The next in order will be "Smith's Magazine," which is of little different type, fourteen years old. It was issued at 100,000, and today the limited edition is 136,000. The next in order will be the "People's," twelve years old. That was issued as a straight monthly, at 100,000. We are issuing two issues a month of 210,000 each now. The next will be the "Top Notch," which also began at 100,000, and we are issuing it now twice a month, 198,000 each issue, 396,000 a month. Then the next

two are the younger publications, the "Picture Play," which we issued at 100,000, and we are today issuing a minimum of 200,000. It may run a little more than that, but I am giving round figures, Mr. Welch. The "Detective Story" is now a weekly. We are issuing, taking that by the quarter, thirteen weeks, it will average 650,000 a month. Now, that is only three years old and has grown 50 per cent. per edition, so that in the month we are issuing altogether something over two and three-quarter millions.

By Mr. Welch:

Q. Including all of your publications?

A. Including all of the magazines. Now, we have about twenty lines of books, if they figure in this.

Q. No; I am asking at the present about the magazines.

A. Two million, seven hundred and fifty-nine thousand would be the issue at the present time.

Q. Circulated through the American News?

A. All through the American News.

Q. Are you familiar with the service that is rendered by the American News Company in the distribution of magazines?

A. Yes, sir; I think I am. I have been dealing directly with them, in close touch for fifteen years steadily.

Q. Now, it has been testified in this case, Mr. Duff, that the American News Company has sixty branches?

A. Yes, sir.

Q. And that there are large intervals between these sixty branches, and that distribution is made to other places outside of the sixty cities, by mail or express. What do you know about the number of branches—distributing branches of the American News Company?

A. I know there are sixty, augmented at the pres-

ent time by forty deliveries, which reduces the distances between branches.

Q. What do you mean by forty deliveries?

A. They are destined, after thorough development, to become branches. They are subservient at the present time to some branch—the branch nearest to them.

Q. That is to say, it would be a delivery in a city that was outside of one of the sixty branches of the American News Company?

A. Yes, sir.

Q. How is the delivery affected in that city, do you know?

A. Why, yes. The product is sent direct to the delivery and there received by an agent.

Q. An agent of who?

A. The American News Company, and handled direct to the city trade and the suburban as well.

Q. So all together, how many distributing points would you say there were?

A. A hundred.

Q. It has also been testified in this case, Mr. Duff, that a wholesaler supplies a larger number of retail news dealers in a particular city than the American News Company supplies. What do you say about that?

MR. DALY: Does he know about that?

MR. WELCH: I do not know. I am asking him.

A. Why, if I understand the term aright, Mr. Welch, I think I understand the question all right.

Q. In other words, does the American News Company supply all of the retail dealers, satisfactorily to you as a magazine publisher?

A. As a whole, I think they do. I have had complaints, of course. We will make a mistake occasionally. Delays will follow such restrictions upon transportation as we have at the present time, and I have heard complaints, but they are not justifiable.

In the matter of these other dealers who are handling other goods, goods perhaps not handled exclusively—and we all know what they are, of course—by the American, I have heard the term "wholesalers" used, and it took me some time to accustom myself to it. I did not understand what they were. They are petty.

MR. DALY: I object to that.

MR. WELCH: I consent.

By MR. WELCH:

Q. Now, with respect to what has been called in this case a follow-up service—that is to say, of taking an overstock from one dealer and supplying a dealer that is understocked, will you state what your experience has been with respect to the distribution of your magazines as handled in that respect by the American News Company?

A. Well, you mean, of promotive work?

Q. Yes; what might be called promotive work?

A. Well, at the present time and for some time past, there are two kinds of promotive work—the oldest style——

By MR. DALY:

Q. How far back is that work?

A. I should suppose at least thirteen years, Mr. Daly. It was in those days what we called missionary work among ourselves. It was just such work as you specify. It was really trade education. It was to see if the news dealer had enough of each publication. If not, his orders were so regulated that he got enough and if he had too many they were regulated so that the over-supply was taken from him. I have known of news company representatives, and I have done it myself in metropolitan districts, where a man is over supplied and another man is out of stock, transfer it, where they have an under-supply in one and an over-supply in another. That was only to make an equit-

able distribution. A record of all that was kept and turned into the various news companies, whichever branch was involved, and the next time those supplies went forth the distribution was somewhat different. The man who had been over-supplied had been more nearly supplied in his demand, and the man under supplied, his wants were taken care of likewise. Another thing along that line is this: I have known of newspaper companies to prepare special circulars when they have themselves been out of stock. I have known them to send it to all of the trade in a large city and ask them to assemble wherever they were over-supplied, and their drivers would pick it up the next morning and bring it in. Through that effort of co-operation the publishers' sales were increased and the returns were diminished.

Now, the other type of promotive work I call scientific.

By Mr. Welch:

Q. I am just asking about the American News Company.

A. It is all American News Company.

Mr. Welch: That is all.

Cross-Examination.

By Mr. Daly:

Q. Now, the total circulation of your magazines is at the present time about 2,000,000; is that correct?

A. About two and three-quarter millions.

Q. Now, your magazines are taken by the news company and then sent to the retailers; is that correct?

A. They are first distributed to their branches, and delivered throughout the country, and then in turn distributed to the retail trade.

Q. They would be sent, then, to the sixty branches first?

A. Yes, sir.

Q. And then from the sixty branches to whom?

A. To the retailer.

Q. How would they get to the retailer?

A. According to instructions, mail or express.

Q. Mail or express?

A. Yes, sir; or in the cities, personal delivery.

Q. Then the retailer would get them from the mail, would he not, or from the express office himself?

A. Outside of the cities. In the cities there is a direct delivery from the branch to the trade.

Q. What cities?

A. All cities where there are news company branches.

Q. That would be sixty cities?

A. Sixty cities and forty deliveries, about.

Q. What cities are those sixty in, do you know?

A. Yes, sir; I could name them; New York, Philadelphia, Baltimore, Washington, Atlanta, Birmingham, New Orleans, Dallas, Los Angeles, right out to the coast and back again, through Denver, Omaha, up to the northwest, St. Paul, Minneapolis, Chicago, Milwaukee, Indianapolis, Columbus, Ohio; Cleveland, Ohio; Cincinnati, Ohio, right down through New York State. I know them all, Mr. Daly. I could list them for you, if you will give me a moment to think it up.

Q. It would be pretty hard for you to reel off sixty?

A. No, sir; I have been there.

Q. Been to all of them?

A. Yes, sir.

Q. I know there are sixty of such places. I wanted to get what they are. Now, then, except in these sixty cities distribution would go direct to the retailer, by mail or express?

A. In the country districts; yes, sir.

Q. Now, then, you have stated that there were forty subsidiary deliveries?

A. Yes, sir.

Q. Just tell what that is, will you?

A. Well, yes; it is a smaller branch. Many of them are comparatively new. It facilitates the delivery of publishers' products to the trade in those cities, outside of the main centers. For instance, Cleveland, Ohio, has a branch.

Q. There is a principal branch there?

A. Yes, sir; it has a branch in Columbus, called the Buckeye News Company.

Q. Would that be one of the subsidiaries.

A. That is one of the subsidiaries.

Q. Now, then, right there, how would they get these magazines to this branch?

A. Shipped direct.

Q. From the Cleveland office?

A. No, sir; from the New York office.

Q. From your office?

A. No, sir; from the American News Company.

Q. You are in Philadelphia?

A. No; right here in New York. My home is in Philadelphia.

Q. Then they go direct to this branch?

A. Yes, sir.

Q. Now, in what other cities or places are these forty located?

A. Oh, Grand Rapids has one; Dayton has one; Nashville has one; Birmingham has one. I won't attempt to give you a full list of them now, because they are newer than the branches themselves.

Q. Now, what territory would be covered by these forty deliveries? Do you know that?

A. The United States and the branches.

Q. These deliveries are shipped out by mail or express, aren't they, to the retailers?

A. Yes, sir; the larger cities. The intermediate cities, cities that are smaller in population than the cities which hold the branches themselves. It is done to facilitate delivery to the dealers in those what you might call third-class cities.

Q. And the rest of the United States is covered, then, by these forty subsidiary branches?

A. The United States is covered by sixty branches and forty subsidiary branches.

Q. And the forty subsidiaries are in forty cities, and the sixty are in sixty cities?

A. Sixty large cities and forty smaller cities.

Q. Now, then, all of the small towns outside of these cities would receive magazines through this method of distribution, of your magazines?

A. Through mail or express.

Q. And the retailer would get the order by express, would he not?

A. Why, yes.

Q. He would come to the office and get it?

A. I presume they are delivered to him in some places. Otherwise he would have to go to the office.

Q. Or get them from the wagon of the express company?

A. Yes, sir.

Q. Now, what sort of work is this? Now, when did this forty subsidiaries system go in?

A. Oh, they have been opening branches for several years. I could not tell you exactly. They are still opening them.

Q. They have been opened, but why was the necessity of that?

A. Well, to facilitate distribution.

Q. The sixty branches were not satisfactory for distribution?

A. Yes; satisfactory at that time.

Q. It was not complete, was it?

A. Satisfactory at that time.

Q. What time?

A. Why, at the time they began to open their subsidiary branches.

Q. How long did they have these sixty branches without any subsidiaries?

A. I don't know how many branches the American had when it was formed. That is sixty-odd years ago. I was not here. They have been opening branches as they were needed.

Q. When did they open any of these forty branches; do you know?

A. I can't give you the date.

Q. Then you don't know when those forty subsidiaries were put in at all, do you?

A. I know that they exist.

Q. You are distributing through them, aren't you?

A. Yes, sir.

Q. Do you know, then, how long you have been distributing through them?

A. That could be easily obtained, but I did not prepare myself to answer that detailed question.

Q. Were they all in in 1917?

A. No; I presume three or four have been opened since, or two or three, perhaps.

Q. And two or three since that time?

A. Since that time; yes, sir.

Q. Now, you are thoroughly satisfied with this system of distribution, then, are you?

A. Perfectly.

Q. Now, then, you spoke of the returns. How are these returns made?

A. They are taken up by wagons in all cities where there are branches and subsidiary branches.

Q. By whom?

A. By the news company wagons or machines.

Q. They pick them up and what do they do with them?

A. They gather them all into their own headquarters and ship them from there to New York, to the American News Company.

Q. And who pays the expense of that?

A. Why, the dealers sometimes prepays—in which case there is an allowance. I don't know how much. That is News Company business.

Q. Who pays the freight?

A. The dealer sometimes pays that and gets an allowance. Sometimes the News Company pays part——

Q. Does not that expense eventually come back on you?

A. The dealer's expense; no, sir.

Q. I mean the expense of freight?

A. There is an expense to the publishers, after all returns have been assembled—fully assembled into the subsidiary branches or the main branches. Now, the publisher's responsibility begins there. Up to that point he has none.

Q. What would that expense be?

A. That stuff is returned by handling charges according to contract arrangement. Well, it runs from a cent to a cent and a half a pound.

Q. And the postage coming back—freight coming back?

A. That is all included in the handling charge to the publishers?

Q. Who pays for that?

A. He pays a cent and a half—two or three isolated cases, possibly two cents from the given point of supply.

Q. Now, out of this 2,000,000 circulation, what period does it cover, did you say?

A. The oldest periodical we have is about nineteen years.

Q. Now, you say these are issued. Does that mean that they are sold?

A. That means that they are sent through the American News Company.

Q. Through the company. Now, out of this 2,000,000 in 1917, was it not?

A. At the present time my figures are dealing with.

Q. Take 1917. What was the circulation of all of your magazines through the News Company?

A. Why, in 1917, we faced the higher price of paper, and immediately began to conserve. We immediately began to cut our editions.

Q. Just state how many.

A. At that same time, through the promotive effort——

Q. No, don't. Just answer the question. What was the number?

A. It is utterly impossible to tell. You might state this, the returns were twenty per cent.

Q. The returns were twenty per cent. on what?

A. On the whole.

MR. WELCH: He was asking for circulation, were you not, Mr. Daly, in 1917?

MR. DALY: Yes, sir; I was asking how many magazines did you circulate through the News Company in 1917.

THE WITNESS: About two million and a half or three-quarters.

By MR. DALY:

Q. Now, then, as I understand it, twenty per cent. of them would be returned.

A. That is what I would suggest.

Q. That would be lost to you, would it not; or to your firm?

A. Why, of course.

MR. WELCH: Just one second, to get that straight: Will you ask whether that two million and a half or three-quarters is per issue or per year? It sounds as if it might be for the year.

THE WITNESS: Per month.

By MR. DALY:

Q. Then, for the year, the whole number of magazines you would put out, would be how many, for 1917?

A. Approximately twelve times that.

Q. Then, on every one of those issues, you say that the returns would be about twenty-five per cent.?

A. It runs from fifteen to twenty-five now, Mr. Daly. One publication may give us a little larger than the other.

Q. That is a pretty large loss, is it not?

A. Yes; it is a loss.

Q. In 1916, about what were your returns?

A. The returns then were perhaps five points higher, because our distribution was possibly ten per cent. more. We began to cut, in the conservation of material, in 1917.

Q. In 1916 you would run about what percentage, then, of returns?

A. Approximately twenty-five, perhaps. Some publications might have given us thirty, and other publications might give us fifteen, and to equalize them all and give you a perfect answer, I should say twenty-five per cent.

Q. Then, as I understand your system of distribution, you simply send out these magazines to the different agencies, and they go to the retailers, and it is up to the retailers to sell the magazines?

A. We deliver our product to the American News

Company in New York, and that is as far as we go.

Q. And they take it up and send it out?

A. Yes, sir.

Q. Now, twelve times that number is somewhere around eighteen million, for 1917; is it not?

A. Yes, sir.

Q. And on the basis of fifteen per cent. or twenty per cent.——

A. Twenty per cent. I should say.

Q. You would get back about how many copies?

A. About one-fifth.

Q. Between three and four million copies?

A. Yes, sir.

Q. Do you know what that loss is to your concern for the year?

A. It would have to be figured out.

Q. You could not give me that?

A. No, sir; I would not like to give you an estimated loss.

Q. Do you know the actual cost of your magazines?

A. The cost to manufacture?

Q. All the costs.

A. That could be assembled, but it would involve so many details it would take time to do it.

Q. If we call on you for that, you will produce it?

A. Later on; yes, sir.

Q. Were our figures right—you say about two million and a quarter a month?

A. About two millions and three quarters.

Q. Then, instead of being eighteen millions, as I was talking about, twelve months would be about—it would be a quarter of a million more.

MR. SPIESS: Thirty-three million.

THE WITNESS: Would it?

By Mr. Daly:

Q. Then your percentage of the loss would be on the thirty-three millions instead of the other figure?

A. But you understand the percentage of returns varies.

Q. You varied the percentage in the record.

A. But even so, there are variations. There are four selling periods in the year. One period is more valuable as a selling period than another. We might run below 20 per cent. and run below 15 per cent. in another period, and in the slowest period we might go over that. We cannot regulate our printing orders and supplies quickly enough to catch a printing order on the press. We have to stand that. You understand all our products go on the stands on consignment, on a returnable basis. Our object is to give all the trade all they want. We do not want to curtail the American—we do not want to curtail the trade in our supply. We do not want to over-supply them either. That is our idea now. We cannot afford to print and supply as liberally as we did before, when we were willing to take up a heavy return, in order to take the chances of increased sales, and at the present time we are perfectly satisfied with what we are getting through the News Company.

Q. If you were selling through the News Company on a non-returnable basis, you would not have near that loss, of course?

A. Why, no; of course.

Q. What did you say your magazine circulation was in 1915?

A. I was not asked that question, was I?

Q. I think you gave several years. I do not remember the years.

Q. Do you remember that, Mr. Welch?

Mr. Welch: He went back to the beginning of each magazine, and gave the initial circulation and then gave it as of the present day.

By Mr. Daly:

Q. What was the initial circulation?

A. The initial circulation on some, and on most, was 100,000, and on one or two 150,000. I venture to say that the "Popular" and "Top Notch" were begun at 150,000. Most of them begin at 100,000. That is the usual edition, with which to begin a new publication, and that might be accounted for by the fact that—well, in those days there were 30,000 dealers, and at the present time there is about 40,000, and the idea of the first edition is to get enough to give each dealer a couple of copies, so as to show them on the newsstands. Necessarily, you must run out a hundred thousand copies.

Q. Name all the elements that enter into this increased circulation. You do not mean to say that the whole increase of your circulation is because of the American News Company, do you?

A. Practically, yes.

Q. What do you mean by "practically, yes"?

A. Well, Street & Smith realize that they have established equipment for a widespread distribution. Street & Smith see no other way of reaching all the retail trade, and with the established equipment and with the 60 branches and the established equipment, and the developing equipment in these 40 subsidiary branches, it appeals to us as a distributing agency.

Q. Well, the forty subsidiaries have been a great help?

A. Assuredly—a help to the trade, but not particularly to the publisher.

Q. The increase of population during all that period would have something to do with it?

A. Undoubtedly it would have an effect.

Q. The character of your magazine is developed from time to time?

A. Each magazine is built on the single policy——

Q. People read magazines more than they used to—there is a greater demand?

A. Personally, I think the demand is waning.

Q. Oh, all right, then. I wish you would give me your circulation for 1917 of all of your magazines, and for 1916, for all of your magazines.

A. I cannot go back, sir, of the present time.

Q. Cannot you get me last year's circulation?

A. That could be gotten; yes, sir.

Q. I would like for you to get that. I want the circulation for the last three years of all of your magazines.

A. That would be 1915, 1916 and 1917.

Q. Also give me the number issued to the News Company and the net. I want the gross to the News Company and the net to you. If you will send that over to Mr. Welch, he can hand it to me. I do not want to bring you back.

A. All right, sir.

MR. DALY: That is all, Mr. Duff.

RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. With respect to the returns and the percentage of returns, is the American News Company, at the present time, and has it recently been doing anything to minimize the amount of returns that you know of?

A. Oh, yes; decidedly so.

Q. State what it has done and what the effect is.

A. They have got the second promotive system that I have referred to before. I call it the scientific —that is my term for it—but it is all done inside the various branches. It consists of a complete set of records beginning with the distribution book, giving the name of each agent and address, and then there is a space for all re-orders. If an agent has drawn ten

copies, and re-ordered four, it indicates he has fourteen. When the life of the publication—sixty days as it is on all our publications—has ended, his returns are charged against his standing order, plus re-orders. Now, he had ten copies first and he re-ordered four, and returned two. That would show he had sold twelve. That goes right down the list, in all the branches. That involves a great deal of clerical work at the hands of older men—better ones in the service, because of experience—and the returns department is in the hands of men of experience of years. Those returns are all separated, and each publication and publisher is separated by itself, and the returns of this week are separated into individual returns, so that the footing of the individual returns tallies with the charge back of the publisher. That, in turn, goes up to the clerical department and it is handed in and those records are made on these several distribution books, so that the publisher's representatives come——

Q. Is that communicated to the publisher's representatives?

A. Those books are at the disposal of the publisher's representatives—at least in our case it is so. I am speaking of Street & Smith. We go over the records and confer with the management. There is a little difference sometimes.

Q. Does that tend to minimize the returns, as far as your experience has gone?

A. Absolutely, in that it gives an equitable distribution which would be entirely out of the question without this fine detailed work.

Q. Are the returns, at the present time, decreasing or increasing?

A. The returns at the present time are decreasing very rapidly in our publications.

Q. I mean on your publications?

A. Yes, sir; because of this special work.

Q. You were asked by Mr. Daly if you sold on a non-returnable basis—distributed on a non-returnable basis—with the American News Company if that would eliminate loss on returns, and you answered yes.

A. Of course it would, because anything we sold would be sold outright.

Q. You can make an arrangement with the American News Company on a non-returnable basis, if you wish?

A. I presume we could.

MR. DALY: Well, do not presume anything.

THE WITNESS: We would not attempt to consider that. Street & Smith are firm believers in the education of the news trade. They likewise have said this: "It is possible that our editorial staff and ourselves may use bad judgment in the selection of certain manuscripts and as a result a bad copy of that publication may be issued, and for that reason we should be the ones to suffer. If we make the bad copy, we should take it back."

Q. You could always regulate the amount of returns by the amount of your production, and by the amount you deliver to the News Company, could you not?

A. They have always been regulated, but not always to a point of complete satisfaction. Sometimes we will fall down.

Q. I mean, if you had a return of 15 or 20 per cent., and you wished to reduce the amount of returns, you could reduce the amount you deliver to the News Company for distribution?

A. Yes, sir; and at the same time sacrifice sales by doing so.

Q. So, you are not obliged to have a return running from 15 to 25 per cent., except in so far as you

deliver to the News Company an excess of copies that they actually sell?

A. There is no telling from issue to issue, Mr. Welch, what will be sold. It simply depends upon the tendency to read. Some months they read more than others. Now, the same edition in April as in March, we will produce a heavier return in April. It is a slow month, and always has been, in Street & Smith's goods. In May, it will be a little bit better. If we issue the same edition in May, we will get a slightly less return, because the demand, according to statistics, will increase.

Q. You could reduce the issue in April, because that is a bad month and——

A. We try to regulate that according to the basis of our records. It is for that reason those records are being kept. They are being kept just for that reason.

MR. WELCH: That is all.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. Just one more question. This detailed system that you spoke about—this checking up system, or whatever you term it, as you have described it—as a matter of fact, do you know how long it has been in existence?

A. Why, yes; these special books that I have in mind—there were others—but the ones I have in mind, I should say——

Q. Are those the ones you explained?

A. Yes, sir; the ones I have in mind, I think, were in force at nearly all or possibly all branches, twelve years ago.

Q. Do you know whether or not, during that period, your company directed the News Company to cut out this book plan, on the ground that it increased returns and held back sales?

A. No, sir; not for any such reason as that.

Q. Well, for any reason, then?

A. Because——

Q. Not because, but answer—did they?

A. The particular system——

Q. Just answer the question.

A. That particular system was discontinued temporarily.

Q. What was that system?

A. The system I have just described.

Q. Why was it discontinued?

A. Because there was a better one in view.

Q. How long was it that they operated under that system?

A. Under the old system——

Q. Now, you bring in two systems that you did not talk about at first.

A. The system I referred to—we were on the special books for some few years—just how long I could not say.

Q. More than one year?

A. Yes, sir.

Q. Five years?

A. I should say five years.

Q. That did not work?

A. Yes, sir; it worked all right, but it was entailing work for the News Company and their branches that was not commensurate with the returns, and Mr. Smith, in fairness to the News Company—he was cooperating with them—agreed that it should be discontinued.

Q. It is not true they took out that system because of increased returns that you got from it, and because it held back your sales?

A. No, sir.

Q. And this other system is what is in existence now—the one you described?

A. Yes, sir.

Q. What system was temporarily abandoned—the old or the new system?

A. The one I have described to you.

Q. That was the first system?

A. That was the only system that I came in contact with when I went into the road work exclusively. There were other systems when I was dealing with the News Company that, from the inside of the office, I was not familiar with.

Q. This scientific system, as you call it, is the one I am talking about. When was that put in?

A. I presume that was put in——

Q. Do not presume. You go to these places and you must know.

A. The old books, as far as that is concerned, are still in force, in the case of some publications.

Q. You said something was temporarily abandoned?

A. The keeping of our special records on those special books was abandoned with the consent of Mr. O. G. Smith, not because of less sales or increased returns, but because——

Q. What was substituted for it?

A. That is what I described just a while ago—what I termed the scientific record. We are getting the same result with less work.

Q. How long has that been in effect?

A. They have been working on it three years.

Q. What do you mean by that—they have been operating it?

A. They have been using it three years.

Q. It is not complete yet, then?

A. No, sir; they are developing it all the time.

MR. DALY: That is all.

MR. MILBURN: That is all.

M. E. DOUGLAS resumed the stand and testified further as follows:

RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. Mr. Douglas, I understand you wish to make a correction in a statement you made yesterday, at page 1930 of the record. I asked you how many retail dealers there were in the United States, and you answered from thirty-five to forty thousand, and then I asked you if that figure was confined to retail dealers in magazines. Your answer appears to be yes. Do you wish to make a correction in that?

A. I could not state positively that there are thirty-five to forty thousand who sell magazines.

Q. Now, it appears at page 1955 of the record that Mr. Daly asked you whether you had not testified that it was a simple matter to go out and pick up agents, and you said, "Broadly, generally speaking, yes." And then he referred to the fact that in building up your organization it had, however, cost you tremendous sums of money and you answered yes. You did not mean that the tremendous sums that he was referring to were the cost of going out and getting agents?

A. Oh, no, not the getting of the agents.

Q. Now, do you know what the character of the papers was Mr. Welker testified that he distributed, or he had the plan for distribution through the boys—what the character of those papers was? Were they magazines anything like yours?

A. No, sir; newspapers.

Q. What are the names of them?

A. I think he mentioned the "Pennsylvania Grit," and the "Blade" and the "Ledger," and I think the "Utica Globe," I think he also mentioned.

Q. Are they published weekly or daily, or what?

A. Weekly.

Q. And what do they contain, merely news matters?

A. News matter. In the early days to which he testified, the copies that I saw at that time impressed me as containing rather sensational news matter.

Q. They were not magazines in any way similar to —or publications in any way similar to the publications that are known today as magazines and periodicals?

A. No.

Q. How did they compare with the magazine sections of the Sunday newspapers that are published today?

MR. DALY: Now, what is he on? Is he making corrections?

MR. WELCH: No; I am asking him about the papers.

THE WITNESS: The news matter in them——

MR. DALY: Wait a minute. What are you comparing them with?

MR. WELCH: The papers that Welker testified about.

THE WITNESS: The news matter in them was of a nature more sensational than the Sunday magazines—Sunday supplements that I read.

By MR. WELCH:

Q. Mr. Douglas, will you look at page 1978 of the record—the answer you made there. You were asked this question: "Now, you changed your method of distribution to some extent at least, by not doing as much business through the American News Company; that is correct, is it not?" and you answered: "After strenuous efforts to continue to supply all of the trade through the News Company." What did you mean by that? Did you mean that you had not been able to supply all of the trade? That is the way it reads to me now.

A. No, I did not mean that. The strenuous efforts referred to were strenuous efforts to have our

district agents comply with their instructions, namely, not to supply trade previously supplied by the American News Company.

Q. By trade, you mean——

A. News dealers.

Q. Retail news dealers?

A. Retail news dealers.

Q. With respect to the copies of your publication that you testified were given away to the boys—five copies, I think, to start them in business, what number did you give of copies that were given away free?

A. I said that the nine-year average, ending 1911, was 546,000 odd copies annually, which was a fraction of a per cent. of the number sold.

Q. Well, what percentage of the number sold would that 500,000-plus, annually, be, approximately?

A. It would be a fraction of one per cent.

Q. Now, you testified that after you got the boys which you have designated as Curtis boys, in answer to Mr. Daly's question, that one out of three boys "stuck," as you expressed it. When was the calculation made that you based that statement on?

A. That was made while we were in our old building.

Q. What year was it?

A. That was prior to 1910.

Q. Well, since 1910 and up to the present time, has the boy force been more or less permanent?

A. I think it has been more permanent.

Q. So that the estimate that you gave of one out of three would not be accurate, as of today, would it?

A. No, it would not.

Q. That is to say, more than one out of three boys would continue with you for a substantial time; is that correct?

A. Yes.

Q. Now, you testified that you granted permission

to your district agents to wholesale "Pictorial Review" in the early part, I think, of 1917?

A. Yes.

Q. Then you were asked by Mr. Daly why you refused after that to grant that permission?

A. Yes.

Q. And you stated that it was because of the methods of the "Pictorial Review" being objectionable?

A. Yes.

Q. Now, I want you to specify what the methods were that you had in mind at that time?

A. Well, for instance, we received communications from agents of ours, who stated that to them the Pictorial Review Company or their agents had urged as a reason for their taking the "Pictorial Review" wholesale, that certain other district agents of ours had been by us—been given sanction, and, therefore, the particular district agents approached could reasonably expect similar sanction from us, and that in fact we were heartily in favor of their taking on the "Pictorial Review." Those were misrepresentations. They were objectionable.

Q. Were the persons referred to as having been given permission by you, agents that you had or had not given permission to?

A. Agents that we had not given permission to were mentioned in that way.

Q. Anything with respect to your having consented generally or for any locality?

A. There were reports that we had given consent all over New England.

Q. Had you given any such consent?

A. No.

Q. What other methods were specified—any other methods that were objectionable, with respect to any subterfuge?

A. There were reports of concert of action by other publishers to raid our organization.

MR. DALY: What was that?

THE WITNESS: There were reports of concert of action among other publishers to raid our organization.

MR. WELCH: I am speaking now of the "Pictorial Review." Take that out.

MR. DALY: Yes; strike that out.

By MR. WELCH:

Q. I am asking what came to you among these objectionable methods that you have been testifying about, with respect to what the Pictorial Review Company or its representatives had been doing, about getting their magazines circulated through the district agents, putting it in the name of someone else?

A. Yes; there were reports of—suggestions that our district agents, by subterfuge, make arrangements which would conceal from us the nature of the arrangements made.

Q. What were they? Specify them as they came to you from your people?

A. The "Pictorial Review" representative would suggest that the district agent arrange to have his father, or his nephew, or his uncle, or his brother, or some dummy act nominally as the "Pictorial Review" agent, when in fact the arrangement would be substantially with our district agent.

Q. That was done in more than one instance, was it not?

A. Yes.

Q. Were they instances that were similar to those testified to in this case by some of the Boston witnesses?

A. Yes, sir; in principle similar to the statements of a number of witnesses on the stand.

Q. Now, you were asked also about permission having been withheld with respect to "Every Week," and you testified that that was granted, until it developed that their methods were objectionable, and you testified that there was something in connection with their boy plan. What other methods were there on the part of the Crowell Company with respect to "Every Week," that came to you as objectionable?

A. They approached our agents and made every effort to induce our agents to handle the Crowell Company's magazines without our sanction, and from time to time there were suggestions either that we had sanctioned it or that we would sanction it, and thus misleading our district agents as to what our attitude was.

Q. You mean in cases where you did not sanction it?

A. In cases where we did not sanction it.

Q. Anything else? Any other cases?

A. One of our agents that I think of, reported that the Crowell representative had read him an extract from the record, indicating that we had given sanction in other cases, and that we would give it in this particular agent's case.

Q. Extract of what record?

A. The record of the proceedings in this case, before this Commission. There were reports to the effect that the representatives of the Crowell Company were saying to our agents that our agents were their own bosses, that they were free to do as they pleased; that they owed us no obligations in this respect, and the whole purport and effect of such representation was to break down the morale of our organization, and thus to accomplish the purpose of this raid that I referred to before.

Q. Do you remember Mr. Beck's testimony in this

case, with respect to his efforts to make arrangements under a pledge of secrecy of the district agency?

A. Yes.

Q. Did that affect your attitude in this matter?

A. Yes.

Q. How did that affect your attitude in this matter, and why?

A. It affected our attitude to this extent, that for us to do that—if we had ignored the acts pursuant to the arrangements, under pledges of secrecy, as he described, it would have amounted to our abandoning our rights with these agents, prior to the finding of a decision by this Commission as to what our rights really are.

Q. Do you feel that the action that Mr. Beck testified about would have any effect, bad or otherwise, on the morale of your agent?

A. It did have a bad effect, and would have had a worse effect if we had ignored said acts.

Q. Now, were the methods that you have generally described as being objectionable, practiced by only these two publications, the "Pictorial Review" and the Crowell Publishing Company, so far as you know?

A. Yes. I might add right there——

Q. Just wait one minute, Mr. Douglas. Do you know of any instance where the Crowell Publishing Company made an offer to one of the district agents, to pay him a sum of money equivalent to the amount of business that he might lose, if he gave up the Curtis agency—something of the sort?

A. Yes.

Q. What was that? Do you know any details about that?

A. This offer was made to Meyer Reiser of Boston.

Q. What was it?

MR. DALY: How does he know that?

THE WITNESS: Because we have seen the original letters from the Crowell Publishing Company.

MR. DALY: Well, haven't you got them?

MR. WELCH: Yes; I have them. I would like to put in those photographs.

THE WITNESS: A similar offer was made by the Pictorial Review Company to one of our district agents, so it has been stated to us.

MR. DALY: You need not bother.

MR. WELCH: I was not going to use them now, but to put them in by another witness.

THE WITNESS: I might say that these objectionable methods complained of were not limited to district agents who were wholesaling magazines or newspapers other than ours.

By MR. WELCH:

Q. You mean they were even directed to what?

A. They were also directed to district agents who were handling nothing but our magazines.

Q. What is your attitude at the present time with respect to "Collier's Weekly"? You still give permission, do you not?

A. Yes, we are giving permission in the case of "Collier's" applications, under the same conditions and on the same basis as heretofore.

Q. And with respect to the "Literary Digest"?

A. Yes; we reserve the right in the case of any individual applicant, to grant or refuse, according to the conditions under which he is working.

Q. (Handing witness.) Are those photographs of the letters you are referring to from the Crowell Publishing Company to Reiser?

A. Those are the photographs.

MR. WELCH: These are only photographs, Mr. Daly. I will offer them in evidence. I can prove they are photographs from the originals.

MR. DALY: We have the originals. We have no objection at all.

EXAMINER MOORE: Photographic copies of these letters offered in evidence, received in evidence without objection.

(The photographic copies referred to were thereupon received in evidence and marked by the stenographer "Respondent's Exhibits Nos. 10 and 11," and are as follows):

RESPONDENT'S EXHIBIT No. 10.

"Boston, Mass., December 28, 1917.

Mr. Meyer Reiser,
35 Court Square,
Boston, Mass.

Dear Mr. Reiser:

In accordance with our conversation today in the office of The New England News Company, Boston, Massachusetts, in connection with your contract now in force, to act as wholesale distributor for Every Week in Boston in supplying the street sales; in the event of the Curtis Publishing Company discontinuing supplying you with their magazines at any time during the next three months, it is understood and agreed that we guarantee your gross profits in the handling of our agency will not be less than $70.00 per week for a period of six months from the date you lose the Curtis Publications, and further to extend the same guarantee for an additional six months from the expiration of the first six months, providing you are still not drawing the Curtis publications direct from the office of the Curtis Company, or acting as their authorized agent, with the understanding that the guarantee of $70.00 per week terminates at any time that the Curtis Agency is returned to

you during either the first or second six months period.

The settlement of the weekly guarantee to be made by us monthly within ten days after we receive a statement from The New England News Company showing your account is paid, and the number of your net sales.

It is further agreed that should The Curtis Publishing Company sue you or your bondsman, Simon Swig, for violation of your contract with The Curtis Publishing Company, we agree to bear the expense of engaging and maintaining counsel for your defense in such suit.

Yours very truly,
THE CROWELL PUBLISHING COMPANY.
John Biehm,
*Assistant Circulation Manager.*

Accepted by
Meyer J. Reiser."

---

RESPONDENT'S EXHIBIT No. 11.

"THE CROWELL PUBLISHING COMPANY
*Woman's Home Companion*
*The American Magazine*
*Farm and Fireside*
*Every Week*
381 Fourth Avenue New York
Circulation Department.

January 4, 1918.

Mr. Meyer J. Reiser,
35 Court Square,
Boston, Mass.

Dear Meyer:

Judging from the report I received of your conversation by telephone today, affairs are rapidly coming to a head at Boston. In order that

there may be no misunderstanding about our position in the matter and that you may feel perfectly free to put forth your utmost endeavors, I am sending you herewith a supplementary memorandum to our agreement with you increasing our guarantee of the gross profits on our agency to $135.00 per week on account of the very unusual position in which you are placed. I understand this increase will permit you to employ Canada point men in the numbers that you want them and that it will protect you from loss from unsold copies and for extra promotion work which you may do.

I feel very positive of your ultimate success and, at the same time, I want you to feel that we fully appreciate the work you are doing.

Yours very truly,

E. A. SCHOLZ,
*Circulation Manager.*"

By MR. WELCH:

Q. Mr. Douglas, have you had any intimation and had you heard of any of these instances, prior to the time of the dates of these letters—that is, December, 1917?

MR. DALY: Now, what instances?

MR. WELCH: Of these methods.

MR. DALY: Speaking of the Crowell methods?

MR. WELCH: Yes, sir; Crowell methods, or Pictorial methods that he has been testifying about.

THE WITNESS: Yes.

By MR. WELCH:

Q. For some time prior to that, is that a fact?

A. Yes.

Q. Do you know anything about any meetings that

had been called or organized by the Pictorial Review or the Crowell Company?

A. Yes.

Q. And the object of them?

MR. DALY: How does he know that?

By MR. WELCH:

Q. How do you know this?

A. I know it by——

MR. DALY: Someone told him so.

(After argument off the record, it was agreed to exclude testimony of the witness relating to the meeting referred to.)

By MR. MILBURN:

Q. I think it was this morning, Mr. Douglas, that Mr. Daly asked you with reference to some of the witnesses who were called, who were district agents—called at Boston and elsewhere—and asked you with reference to their work with the boys. Now, it is a fact that some of the witnesses called there were more active with the boys than others, is it not?

A. Yes.

Q. And that condition I imagine prevails throughout the district agent's staff; some men are better than others, is not that true?

A. Yes.

Q. But your attempt is to get as good men for the boys as you can get, when you get a district agent, is that correct?

A. Yes.

MR. WELCH: Mr. Examiner, that is all that I have at the present time, but I would like to have the same right that Mr. Daly has reserved. If any questions come up, I would like to ask——

MR. DALY: That will be all right, if the Examiner is satisfied.

EXAMINER MOORE: It will be so understood.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. Now, Mr. Douglas, as to these reports from your agents with reference to these certain activities of the Crowell Company and the "Pictorial Review," at what time were these reports given to you—about when?

A. On or about February 17.

Q. 1917?

A. 1917; a communication from Mr. D. G. Belcher, of Schenectady, N. Y.

Q. He reported it to you, did he?

A. Reported that a representative of the Pictorial Review Company said to him that our district agent in Rochester, N. Y., had, with our sanction, taken on the "Pictorial Review" agency.

Q. Now, what other report did you have?

A. About the same time a communication from J. L. Thomas, of Baltimore.

Q. Your agent?

A. Our district agent, to a similar effect, in relation to a district agent other than Mr. Lesser as having taken on the "Pictorial," with our sanction, and at about the same time a communication from Mr. William Smith, of Washington, D. C., stating similarly that still a different district agent had, with our sanction, taken on the "Pictorial Review," in each case naming the district agent supposed to have been given our expressed sanctions, and others.

Q. Which agents did they say?

A. Mr. Belcher stated—he mentioned Mr. Lazareth, of New York; Mr. Smith mentioned, I believe, Mr. Schafer, of Pittsburgh——

Q. And the Baltimore man?

A. My memory does not indicate who it was that Mr. Thomas mentioned, but he mentioned someone

specifically, this was a telephone conversation from Baltimore.

Q. About how many of those reports did you have —you said others—were there many?

A. There were a considerable number of others at different times.

Q. About how many?

A. Altogether, I would think we had probably fifteen to twenty-five.

Q. And they occurred either about this time or afterwards, did they not?

A. Before or afterwards—after or about that time.

Q. After or about that time?

A. Yes, sir.

Q. Now, of course, that was after the time that your difficulty with the "Pictorial Review" arose, was it not?

A. Well, this was at about the time that our difficulties were beginning.

Q. Well, the break occurred prior to this date that you mention?

A. What break do you mean?

Q. Between you and the "Pictorial Review," or about that time?

A. These instances that I mentioned occurred, some of them, before we really decided what we would do.

Q. What do you mean by that last answer?

A. I mean that some of these instances I mentioned occurred before we had really decided what we were going to do.

Q. What instances, for instance?

A. Mr. Belcher's communication in reference to Mr. Lazareth.

Q. That was when—that was in March, was it not?

A. February.

Q. Now, as a matter of fact, you are aware that there is a letter in the record here from Mr. Roscoe Peacock, to Mr. B. A. Mackinnon, dated October 3, 1916, marked "Commission's Exhibit R," in which he stated——

"Dear Mr. MacKinnon:

When I last saw you I talked with you about the possible attitude of the Curtis Company in case a group of publishers, including yourselves, The Crowell Company and the Metropolitan, should see fit to inaugurate an independent distribution. In what I said to you I think I correctly expressed the attitude of the company in regard to any distribution which might be made strictly among retail news dealers. If, however, there was any attempt made to go after boys who are selling Saturday Evening Posts and the other Curtis publications, we would certainly put up a fight, because we regard that end of the business as entirely our own and would resent interference just as much as a man who has taken out a patent on some idea."

Now, in October, apparently, Mr. Peacock and Mr. Mackinnon seemed to be making some arrangements about these things?

A. The letter speaks for itself, and it is in the record.

Q. You know that for a fact, that these men were trying to make some arrangement about the use of these agents?

A. To the extent that the letter itself characterizes these attempts——

Q. You knew nothing about that—is that what you want to say about that? That you knew nothing about this proposed arrangement between these two men?

Mr. Welch: What arrangement, Mr. Daly—there is no testimony about an arrangement here.

Mr. Daly: About this matter that Mr. Peacock writes about:

"When I last saw you I talked with you about the possible attitude of the Curtis Company in case a group of publishers, including yourselves, the Crowell Company and the Metropolitan, should see fit to inaugurate an independent distribution?"

Do you know what your attitude about that was at that time?

THE WITNESS: Our attitude at that time, in reference to all publications was to give the district agent sanction wherever we could do so, without having the integrity of our organization threatened, or our local interests certainly substantially interfered with.

By MR. DALY:

Q. That was what Mr. Mackinnon was trying to arrange?

A. I do not know what he was trying to arrange.

Q. Well, the letter shows what it was sufficiently here, I think. We will let it go. When did these complaints first come to you about Crowell—about the same time?

A. Just at this time——

Q. Which time do you mean?

A. In the month of February, the Crowell Company was not, through representatives in the field, as active along this line as the Pictorial Review Company.

Q. And then the reports that you had received in reference to that must have been after February, 1917—is that correct?

A. In relation to the Crowell Company, the specific complaints that I referred to previously were, I think, in most cases, after February.

Q. What specific complaints were there about the Crowell Company—when they began to come in, what

were those complaints? You saw them, did you not, or knew about them?

A. I remember that shortly after the New York hearings before this Commission, at which Mr. Beck testified, with reference to arrangements made under pledges of secrecy——

Q. As a matter of fact, it was about that time?

A. The volume of them increased. For instance, in New England and in the middle west——

Q. You had not had any in the summer, had you?

A. As I stated, the Crowell Company, in the early time was not particularly active through the road men in the field.

Q. Your first recollection of these Crowell complaints, then, was about the time of the New York hearings in this case?

A. There had been earlier complaints—I am speaking now in a general way. There had been complaints before about their approaching our agents in 1915 and 1916, where we refused permission under those circumstances. The record shows that. They are in the record.

Q. That stopped then?

A. There seemed——

Q. As far as you knew?

A. Our reports from the field stated that the Crowell Company had apparently stopped trying to get our agents.

Q. At the time, or about the time, these new arrangements were made, which was about the time of the hearing, according to my recollection, then the complaints——

A. Those complaints increased.

MR. WELCH: May I ask a question right there, Mr. Daly, in order to clear this up?

MR. DALY: Yes.

By MR. WELCH:

Q. Do you know at about that time, or early in the year 1917, anything about a Crowell contract being put in?

A. Yes; the Crowell Company put out a contract.

MR. DALY: What do you mean?

THE WITNESS: That is one of the matters, as I understand——

MR. DALY: Do you mean with your agents?

THE WITNESS: Yes; the Crowell Company had offered contracts setting forth——

MR. DALY: Trying to get your agents?

THE WITNESS: Setting forth that the agents would buy their copies of the Crowell publications through the branches of the News Company and the agents would distribute them locally through boys and outside stands.

MR. WELCH: That was when?

THE WITNESS: January, 1917, I should say, or thereabouts.

MR. DALY: Is there anything else you want to ask?

MR. WELCH: No.

By MR. DALY:

Q. In the matter of Riser, there was a letter introduced here showing that the Crowell Company has offered to reimburse him for any losses. Do you know of any other cases of that kind?

A. It was communicated to us that an offer similar in principle was made by the Pictorial Review Company——

Q. I am speaking of Crowell now.

A. I have no personal knowledge of other cases.

Q. You do not know of any other cases?

A. I have no personal knowledge of any other cases.

Q. Did any of your agents report that there were others?

A. I do not recall any.

Q. When was this offer made to Riser—do you know?

A. Well, the letters themselves will show. They are in the record. I do not remember the date.

MR. MILBURN: December 28 and January 4.

By MR. DALY:

Q. It was after the hearing in Boston that this matter took place?

A. I could not say positively. I did not learn of these until after the hearing in Boston.

Q. These newspapers that you speak about—as a matter of fact, the "Ledger" carried a great deal of fiction along about that date—a great many continued stories?

A. There were sensational stories in these newspapers.

Q. Very little news in them, was there not?

A. The characteristics that I remember of them, were the emphasis upon the sensational news events of the day.

Q. Sensational what?

A. Sensational news events—divorce proceedings, etc.

Q. On page 1989 of the record, at the bottom of the page—I asked a question there, and you may want to correct your answer—"that, of course, increased your circulation—is that correct"?

"A. We have found that intelligent self-concern is founded in services to others, including the boys."

Now, in reading that over, I do not understand that answer. Will you make it clear for us?

MR. WELCH: Read back a little and see what it covers.

MR. DALY: It was not a direct answer to the question, and there is something about it I do not understand.

THE WITNESS: I meant this, that these offers of ours to which you referred, of course, have, as their direct commercial purpose, the purpose of securing larger numbers of steady customers of our magazines, readers to be supplied continuously by boys, week after week—a better class of circulation as well as more circulation than could be gotten by circulation to readers other than steady continuous buyers. The reference to "intelligent self-concern" means that the purpose is accomplished by service rendered by these boys which their parents appreciate and everyone appreciates, all of which redounds to their credit and our credit and——

MR. DALY: And increases your circulation, of course?

MR. WELCH: Is that testimony by you, Mr. Daly?

MR. DALY: Yes, I guess so. That is the answer to the question—increases your circulation—that is the answer you want to make?

THE WITNESS: Yes, it gives us a better circulation, a steadier circulation, a class of readers that buys continuously, as well as more.

MR. DALY: That is all.

MR. WELCH: With the exception of these order blanks and reports that I want to put in, that is all I have of Mr. Douglas now.

MR. DALY: That was taken up the first day, was it not?

MR. WELCH: Yes; I think it was.

RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. The first day of the hearing, at the beginning of Mr. Douglas' testimony, the new form of contract was put in by the Commission, and I asked that the new

form of requisition blank be also marked as in evidence, and I think it was given a number at that time to be supplied later. I will ask Mr. Douglas about it, to get it clear.

Will you produce the new order blank that is used in connection with the new form of contract?

A. I think that is the new form (exhibiting).

Q. You know it is, do you not?

A. Yes; but we have had so many that I do not like to state positively which is which, without examining it carefully.

(The blank referred to was thereupon received in evidence and marked by the stenographer, "Respondent's Exhibit No. 12," and the same is attached hereto and made a part of this record.)

By Mr. Welch:

Q. Mr. Douglas, do you produce copies of the sales reports that are made by the district agents to you or to your company, in reference to which you have testified?

A. These are the forms (producing forms).

Mr. Welch: I offer these in evidence.

(The forms referred to were thereupon received in evidence and marked by the stenographer, "Respondent's Exhibits Nos. 13 and 13-A," respectively, and the same are attached hereto and made a part of this record.)

By Mr. Welch:

Q. I show you Respondent's Exhibit 13, and I wish you would state what that report covers when it is made out, and how it is made out, just as briefly as you can.

A. This is the report that is used by the district agent to send to us the figures showing the sales by the boys. The names of the boys are on the report.

Q. Who puts those names on?

A. We stencil them on in the office at Philadelphia. I think one or two of our branch offices have the equipment with which to do that, and the district agents fill in the blanks and send them to us.

Q. I show you Respondent's Exhibit 13-A and ask you how that is made out?

A. The same district agent, if he is supplying retail news dealers, makes that out in the same way. We stencil the names of the adult retailers in, and the district agent reports the figures showing the number sold.

Q. Mr. Douglas, at the first hearing here held in December, an exhibit was put in by the Commission, which was stated by you to be the order blank which went with the contract then in force with your district agents?

A. Yes.

Q. I understand that the particular order blank that you furnished at that time was not the order blank in force, but that through error an older one had been offered by you?

A. Yes, sir; that is correct.

Q. Have you one of the order blanks that was in force at the time of the hearing in New York, in December of 1917?

A. This is the form (producing form).

MR. WELCH: That will be substituted for the other.

(The form referred to was thereupon received in evidence and marked by the stenographer, "Respondent's Exhibit No. 14," and the same is attached hereto and made a part of this record.)

MR. WELCH: That is all.

EXAMINER MOORE: We will adjourn now until tomorrow morning at 10.30 o'clock.

(Whereupon, at 5 o'clock P. M., an adjournment was taken until tomorrow, Friday, April 19, 1918, at 10.30 o'clock A. M.)

BEFORE THE FEDERAL TRADE COMMISSION.

*The Federal Trade Commission*
v.
*The Curtis Publishing Company.*
} Docket No. 15.

Court Room 2, Woolworth Building,
New York City, N. Y.
Friday, April 19, 1918.

The hearings in the above entitled matter were resumed at 10.30 o'clock A. M., pursuant to adjournment.

Before: Examiner CHARLES S. MOORE.

Appearances: MESSRS. JOHN WALSH, Chief Counsel of the Federal Trade Commission, A. M. DALY, and L. A. SPIESS, on behalf of the Commission; and
JOSEPH W. WELCH, ESQ., and JOHN G. MILBURN, JR., ESQ., on behalf of the Curtis Publishing Company.

EXAMINER MOORE: Gentlemen, if you are ready we will proceed.

MR. MILBURN: Mr. Weand, will you come around and take the chair?

R. W. WEAND was called as a witness on behalf of the respondent, and, being duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Weand, where do you live?

A. Bethlehem, Pennsylvania.

Q. What is your business?

A. Stationery.

Q. Have you any connection there with the Curtis Company?

A. Yes, I am district agent.

Q. And handle their magazines in Bethlehem; is that correct?

A. Yes, sir.

Q. Now, do you wholesale any other magazines?

A. Yes, sir.

Q. How long have you been the Curtis agent there?

A. Four years.

Q. What was the first magazine you took on?

A. Curtis.

Q. And thereafter, took on others?

A. Yes, sir.

Q. If any, how many other mazazine wholesalers are there in Bethlehem?

A. To my knowledge, there are two others.

Q. Who are they?

A. South Side News Agency and a man by the name of Wilson.

Q. And is the South Side News Agency a local concern?

A. Both of them; yes, sir.

Q. Has nothing to do with the American News Company, has it?

A. No, sir; not to my knowledge.

Q. So, counting the whole city, you are not taking into account any American News Company service there at all?

A. No, sir.

Q. Do they both handle other magazines?

A. Yes, sir.

Q. How do they handle the Curtis magazines?

A. Through sub-dealers and boys.

Q. Do you deliver to the retail dealers?

A. Yes, sir.

Q. How many boys have you?

A. Between thirty and forty.

Q. And what do they do—what do they handle?

A. Curtis publications.

Q. Do they handle anything else?

A. Not to my knowledge.

Q. Where do you get them?

A. The boys?

Q. Yes.

A. We get our boys through various methods. I should say the greater portion of the boys are attracted to the work from accounts coming from our other boys. We get them through the promotive work also, through the Curtis Publishing Company.

Q. Who is the Curtis road man in your district?

A. Mr. Worthington.

Q. Does Mr. Worthington work with you in establishing these "Post" boys?

A. Very actively.

Q. What are your activities—what have you done?

A. Oh, the boys are offered prizes, such as Y. M. C. A. dues. They start them in the building and loan associations. They give them knives, and, oh—various things. The advantages in that respect are quite numerous.

Q. As you have an established boy, you get him to work among his friends?

A. That usually goes without saying. It seems to work out that way.

Q. About what class of boys are there? Where do you get them?

A. Well, our boys are a very fine class of boys. We have boys who are interested in other work, largely through their parents. Their parents take a great deal of interest in the work and like to see these boys do this

work on account of the business experience it gives them.

Q. Do you come in touch with the parents themselves?

A. Oh, yes, sir; they call at my store frequently.

Q. The boys call at your store for papers?

A. Yes, sir; they are obliged to do that.

Q. And the parents with them sometimes?

A. Not necessarily. They get into my store for various reasons and talk it over.

Q. Now, how permanent a force of boys is that? What about their staying with you?

A. Well, we have no trouble holding boys, except for various reasons which are quite beyond the control of myself or the boys. For instance, a boy would leave town or we have an industrial course in our public schools that is operated in conjunction with the Bethlehem Steel Company. The boys are obliged to go to school at certain periods, and then take a certain period in the Steel Works.

Q. So that when a boy gets old enough to get into the vocational work, in connection with the school work, he has not the time to continue selling these papers?

A. No; I lost a master salesman recently on that account.

Q. Have some of your boys become members of the league of salesmen?

A. Yes, sir; I just had three applications last week.

Q. In addition to the compensation or revenue you get directly from the sale of the Curtis papers, do you get other revenue from the Curtis Company?

A. Oh, yes.

Q. Is it any material amount?

A. Quite material, yes.

Q. You say you have been agent for four years; is that correct?

A. Yes, sir.

Q. About what would that average, per year?

A. I don't believe I could intelligently tell you that.

Q. But it has been an appreciable amount?

A. Very much so, yes.

Q. Could you give approximately how much you have received, all told?

A. I am afraid I could not, no.

Q. You report these boys weekly to the Curtis Company, and their sales, do you not?

A. Oh, yes; we have our usual form reports.

Q. Have you just recently been put under a new contract?

A. Yes, sir.

MR. MILBURN: I think that is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. Now, you said that you recently had applications for this degree of master salesman—three recently; is that correct?

A. No; I did not say that, to my knowledge.

MR. WALSH: Master salesman quit.

By MR. DALY:

Q. Oh, the master salesman quit; is that what you said?

A. I recently lost a master salesman. He had already attained that.

Q. Well, I think you also testified, did you not, that—well, let me ask you then how many master salesmen have originated through this plan, in the course of your busines?

A. To my knowledge there is one that I just lost, was the only one that reached the master salesmanship.

Q. What period of time would that cover?

A. Three years.

Q. Now, there are other degrees that they work up through, are there not?

A. Yes, sir.

Q. I do not mean they confer degrees; you know what I mean.

A. I understand you.

Q. What are those?

A. Well, they join the league and become master salesmen—work up to master salesman.

Q. Now, when these men get to be master salesmen, what are the requirements for such a promotion?

A. Well, we look after the boy in school. He is obliged to be——

Q. Obliged to sell so many papers; is not that it?

A. Well, that puts him in that class. However, if he does not sell the necessary—if he does sell the necessary number of copies and he is—in other words not a good student, the idea is, as I understand it, not to hinder his work in school by putting this additional burden on him, but he must show a certain percentage in his school work, which is taken up directly with the school, and in which our town school authorities are glad to work with us and co-operate with us.

Q. Yes; but in conection with that, what other requirements are there? He does not get to be a master salesman, does he, because he has a certain percentage in school?

A. Oh, no.

Q. Well, what else is required?

A. Well, after he is appointed master salesman he is obliged to take various examinations.

Q. No; but how does he get to be a master salesman?

A. By selling a certain number of copies.

Q. In your case, how many copies is that?

A. The same as in any other case. It is a rule laid down.

Q. How many is that?

A. I don't know. I have that on a list in my office.

Q. Unless he sells this requisite number of copies he never gets to be a master salesman, does he?

A. No, sir.

Q. What advantage is there for a boy when he gets to be a master salesman, that any other boy does not have?

A. Well, the Curtis Publishing Company obligate themselves to put him into a position of his own choosing, and they work in conjunction with various corporations that I understand—who these boys understand are acceptable to them. They are glad to take them.

Q. Do you know about that?

A. Yes.

Q. You mean that any position that this boy chooses, that he could obtain through them?

A. Yes, sir; he can.

Q. If he wanted to be a professional man, could he get to do that?

A. I am not in a position to say that.

Q. You don't know about that?

A. I do not know, no, sir.

Q. You are referring really to these corporations—that is what you mean?

A. Yes, sir; particularly the Bethlehem Steel Company.

Q. Now, then, you seem to know about this. How many of these boys, within your knowledge become—have secured positions through this source?

A. This master salesman I am speaking to you about. He is now with the Bethlehem Steel Company, following out the line of work that he has decided on.

Q. Is that the only boy now?

A. That is the only master salesman I had.

Q. He is the only one that would be equipped?

A. He would be the only one that would be allowed to enjoy that privilege that he had earned.

Q. Do you know whether the Curtis Company got him this position or not, or whether he got it himself?

A. I am not certain about that?

Q. You do not know about that?

A. No, sir.

Q. You are not speaking at all from knowledge about this, are you?

A. Knowledge of what?

Q. About the securing of these positions. You don't know at all about how he got this position, recently?

A. No; I am afraid I cannot tell you; no sir.

Q. Do you know what he does?

A. Yes, sir; he is in mechanical work. He hopes to take up mechanical engineering at the Bethlehem Steel Company—drawing.

Q. How old a boy is he?

A. Really, I cannot tell you that. I should judge about fourteen or fifteen.

Q. Now, then, what work do you do with the parents of these boys—anything, except when they call in the store?

A. Just that work and occasional telephone calls.

Q. You make no special effort yourself to do anything?

A. I don't call on the parents personally, no sir.

Q. What do you do for the boys?

A. Well, I do everything for the boys that I possibly can. I am quite interested in them.

Q. Well, what do you do?

A. Anything that is necessary to promote their work.

Q. Just what do you do?

A. Well, we talk to the boys. We encourage them.

We make them feel that their services are appreciated. In other words, we respect this boy just as we would another business man.

Q. What do you do about it? That is what I want to know. That is all you do, is it not—encourage them along, talk to them?

A. That is the idea, yes, sir. We give them prizes, of course.

Q. That is something else the Curtis Company gives—the prizes, do they not?

A. Not necessarily, no sir.

Q. Then what prizes do you give?

A. Anything that I think might attract the boys. I had a boy leave me—a fine little chap left me to move to San Francisco just day before yesterday, and I thought so much about the boy——

Q. That you gave him something?

A. I gave him a fountain pen.

Q. The Curtis Company did not give him that?

A. The Curtis Company did not know anything about that.

Q. Now, do you handle the "Pictorial Review," Mr. Weand?

A. Yes, sir.

Q. And how long have you handled that paper?

A. Oh, I do not know. I guess since—well, I cannot tell you. I quess I have always handled it.

MR. MILBURN: Do you ask him whether he wholesaled or retailed, Mr. Daly?

THE WITNESS: I have wholesaled and retailed it.

By MR. DALY:

Q. How long—since when?

A. I could not tell how long.

Q. Since you have been in business?

A. Yes, sir.

Q. All the time you have been in business?

A. Yes, sir.

Q. Do you handle it now?

A. Yes, sir.

Q. Are you under contract with the "Pictorial Review" now to handle their publications?

A. Am I—no, sir.

Q. Have you not cancelled the contract?

A. Yes, sir.

Q. When did you do that?

A. I cancelled my contract twice—I do not just remember the dates.

Q. Now, when did you stop handling the "Review" the first time?

A. When did I stop handling it?

Q. Yes.

A. I do not know.

Q. About when?

A. Oh, I cannot say. I should say about——

Q. About two years ago?

A. No, I do not think I had the distributing agency that long.

Q. Well, can you not give me about the time you stopped handling these papers—it is not very far back, is it?

A. Well, I believe, as near as I can tell you, I think it was a year ago.

Q. What is that?

A. Probably a year ago I started to distribute it to the best of my knowledge. I am not certain.

Q. When did you stop?

A. I sent the first notification about this, about six months ago, I should say.

Q. Why did you notify them then you were going to stop?

A. Because it was indirect—it was directly—my contract with the Curtis Publishing Company would not

allow me to do that. It was a direct violation of that contract.

Q. How did you come to know that—you took it on when you were still with the Curtis Publishing Company, did you not?

A. Yes, sir.

Q. Where did you find out about that?

A. I was notified to that effect.

Q. By whom?

A. The Curtis Publishing Company.

Q. You took it on again after that, did you not?

A. I cancelled my contract then.

Q. With the Pictorial Company?

A. Yes, sir.

Q. And then you took it on again, did you not?

A. No, sir.

A. I understood you to say you were selling it right up to now?

A. I am.

Q. And you cancelled it recently?

A. Again; yes, sir.

Q. You must have taken it on again after you got this notice?

A. No—what notice?

Q. The notice from the Curtis Publishing Company calling your attention to your contract—that you were violating that contract.

A. That is when I cancelled it for the first time.

Q. Did you stop handling it then?

A. No, sir; I still retail it.

Q. You did not drop it—you kept right on?

A. No, sir; I still handle it.

Q. You said you wholesaled it and retailed it.

A. Yes, sir.

Q. When did you stop, then?

A. I stopped since wholesaling—distributing, rather.

Q. You went on recently, until you canceled your arrangement with them again?

A. Yes, sir.

Q. Why did you do that?

A. Because it was a violation of my contract.

Q. A violation in retailing it?

A. I have no contract not permitting me to sell magazines for retail.

Q. I do not understand what you mean by that.

MR. WALSH: Ask him to give a chronological history of his dealings with the Curtis Publishing Company and with the "Pictorial Review."

By MR. DALY:

Q. Give a chronological history of your dealings with the "Pictorial Review" in your own way?

A. I was approached since by the "Pictorial Review" Company, by letter, to distribute their publications, which I accepted.

Q. When?

A. I really do not know.

MR. MILBURN: About when?

THE WITNESS: I should say about a year ago.

By MR. DALY:

Q. You are not positive?

A. No, sir.

Q. You received that letter later?

A. Yes, sir; after learning this was a violation of my contract I canceled it.

Q. That was a wholesale arrangement?

A. Yes, sir; these magazines still came on and I canceled them again.

Q. You mean you wrote the "Pictorial Review"?

A. Yes, sir; twice—two cancellations.

Q. Now, in both instances, you were notified, were you, by the Curtis Publishing Company?

A. Oh, no—no; I was notified once by them.

Q. And they would not stop?

A. Who would not stop?

Q. The "Pictorial Review" would not stop sending you papers?

A. The magazines continued to come.

Q. And you continued to distribute them——

A. No, sir.

Q. (Continuing)—in a retail way?

A. No, sir; the copies were called for at my place. I did not distribute them. There is a personal reason for that. Our relations were entirely cordial, and I would not, from a matter of general principle, deliberately let their magazines lie. It was a personal matter on my part.

Q. As a matter of fact, you suggested you could make other arrangements about handling these?

A. I would be glad to do so; yes, sir.

Q. You did not tell them that, did you?

A. I did; yes, sir. I told them that in both of my letters.

Q. Now, as a matter of fact, you could have handled these "Pictorial Reviews" without interfering with your work of circulation of the Curtis Publishing Company publications, could you not?

A. Yes, sir.

Q. Did you ever try to sell them through boys?

A. No, sir; my boys do not handle them.

Q. Did the "Pictorial Review" request you to sell them through boys?

A. They may have in that general letter, but I am not familiar——

Q. What general letter?

A. Asking me to take the distributing agency, but I am not certain about that, so as to say yes or no.

Q. You have no recollection of that, have you?

A. No absolute knowledge of it; no, sir.

Q. What equipment have you for handling magazines?

A. What?

Q. What equipment have you for handling magazines—how do you ship them out?

A. My employe—my boy——

Q. Where does he take them?

A. To the sub-dealers.

Q. How many sub-dealers are there in your town?

A. Eight.

Q. And you cover them all, do you?

A. Yes, sir.

Q. What dealers do these other men serve that you talked about?

A. I do not know.

Q. You do not know that?

A. No, sir.

Q. Do you know what equipment they have for serving papers?

A. No; I do not.

Q. How does this boy take them out to the dealers?

A. He has an express wagon.

Q. How large a town is Bethlehem?

A. Sixty thousand they call it now.

Q. Does the American News Company operate in your town?

A. In what respect?

Q. Distribute their magazines?

A. From New York; yes.

Q. How do they get their magazines from there?

A. Well, mine come by express.

Q. You deal with the American News Company, too, do you?

A. I do; yes, sir.

Q. Then, you know how they send their papers there, their magazines there—by express, you say?

A. Yes, sir; and mail.

Q. You pay the express, do you?

A. Yes, sir.

Q. Do they serve any other of these retailers that you talked about?

A. Yes, sir; I guess they do—all of them.

Q. Do you know?

A. I do not know except by casual observation. I see packages come in at these various places.

Q. The express companies deliver the packages to your place?

A. Yes, sir.

Q. Now, you executed a new bond lately, did you not?

A. Yes, sir.

Q. A new contract, I mean?

A. Yes, sir.

Q. Who had you do that?

A. The district superintendent.

Q. Who is he?

A. Mr. Worthington.

Q. What did he say to you when he came and asked you about that contract?

A. He explained the features of it and asked whether it was agreeable to me to sign it under those conditions, and I said yes.

Q. Were not the relations under that other contract perfectly satisfactory?

A. Yes, sir; our relations have been always very satisfactory.

Q. Why did he state he wanted the change made?

MR. MILBURN: I—oh, I beg your pardon.

THE WITNESS: He did not explain that.

By MR. DALY:

Q. Why did you change?

A. Simply because he asked me to, to be frank with you.

Q. There was a cash deposit provision in the first contract, was there not?

A. Yes, sir.

Q. How much was that, in your case?

A. I think it was $40.

Q. Now, under the new contract, what is your cash deposit?

A. $145.

Q. Why did they increase it under the new contract?

A. I really do not know. I really did not go into that detail, but I imagine on account of the different arrangements they had of making payments.

Q. What arrangement was that?

A. We pay for our publications after we sell them.

Q. That is, under the new contract?

A. Yes, sir.

Q. Under the old one——

A. We prepaid them.

Q. Now, how many of these papers do you handle —the "Evening Post"?

A. Eight hundred and seventy-five.

Q. How many of the "Ladies' Home Journal"?

A. Six hundred.

Q. How many Pictorial Reviews"?

A. I do not believe I can tell you. I think about two hundred.

Q. When you were handling them, I mean?

A. I think about 200. It was handled by some one else, and I am not so positive about that.

Q. What was the arrangement you suggested about handling the "Pictorial Review's" magazines?

A. That I suggested to whom?

Q. To the "Pictorial Review."

Mr. Milburn: Did he suggest anything to anybody?

MR. DALY: He said a while ago he did.

THE WITNESS: As I have told you, I want to convey to you that my relations with them were cordial. I had no difficulty with them, and I did not want to leave them without a representative there. In other words, I had no reason for antagonizing these people, and I would do anything for them to stop clean with them.

By MR. DALY:

Q. What did you do?

A. I made arrangements for them to place the agency in other hands.

Q. In whose hands was it?

A. Into the hands of a young lady.

Q. What did this young lady do?

A. She works for me.

Q. She is one of your clerks?

A. Yes, sir.

Q. And she handles them alone, does she?

A. Yes; in this particular case she enjoys all the profits from it. I asked her—I supposed it would be only temporary when it was done—but I asked her if she would do that, until final arrangements were made.

Q. About how much did you make out of the "Pictorial Review," when you were handling it—I mean per issue?

A. Do you mean to say——

Q. What was the profit to you from handling the "Pictorial Review"?

A. Well, I paid——

Q. Not what you paid—oh, you are figuring it out, are you?

A. I paid 9¾ cents a copy, I guess, and sold it for eleven cents——

Q. Then you sold about 200 a month, you said?

A. I have returns—I do not sell 200 a month. I should say I sold—probably disposed of—of, to be fair, 125 to 175 at the outside. I am not able to give you exact figures. This young lady is handling this under her own supervision and she takes all the profits.

Q. Does the Curtis Publishing Company know your young lady is handling the "Pictorial Review"?

A. I do not think they do. I have never said anything to them about it.

Q. Did you handle "Every Week"—did you ever handle it?

A. Yes; I handled "Every Week."

Q. When did you stop handling it, or do you handle it now?

A. I still handle it.

Q. Wholesale or retail?

A. Retail.

Q. Were you ever notified by the Curtis Publishing Company, or asked by the Curtis Publishing Company, or any of their representatives, to stop handling it?

A. No, sir; I was never approached on that subject.

Q. Did you stop handling any other magazine during this period in a wholesale way?

A. No, sir.

Q. You were willing to take all the magazines on that you could, were you not, in a wholesale or retail way?

A. Yes, sir.

Q. Why did you not cancel some of these other magazines?

A. It was not necessary.

Q. It was not necessary? Why?

A. That is a hard question to answer.

Q. As a matter of fact, the "Pictorial Review"

was the only one that the Curtis Publishing Company asked you not to handle?

A. The Curtis Publishing Company did not ask me to stop.

Q. They called attention to your contract—it was the only one you thought conflicted with the provisions of your contract?

MR. MILBURN: I object to that—"what he thought."

MR. DALY: He testified it was against the provisions of his contract.

MR. MILBURN: I know that, but I object to a construction on his part of his contract.

By MR. DALY:

Q. You testified, did you not, that the Curtis Publishing Company called your attention to your contract?

A. Yes, sir.

Q. And then you cancelled the "Pictorial Review," did you not—what do you say about that?

A. The cancellation, to the best of my knowledge, was made before that. I think that came as a circular letter. I am not positive about it. I do not pay very much attention to those details.

MR. DALY: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. Were not there two other magazine wholesalers in Bethlehem when the "Pictorial Review" came and asked you to handle their magazines wholesale?

A. Were there two other dealers?

Q. Yes.

A. Yes, sir.

MR. MILBURN: That is all.

GRANT CASTNER was called as a witness on behalf of the respondent, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Castner, where do you live?

A. Trenton, N. J.

Q. What is your business?

A. My business is a commercial photographer—that is, in connection with the Curtis business.

Q. You handle the Curtis papers there also?

A. Yes, sir.

Q. How long have you handled the Curtis publications there?

A. Going on seven years.

Q. Do you handle any other magazines?

A. No; no other magazines.

Q. Or papers?

A. No papers.

Q. Never handled anything but the Curtis publications?

A. Not wholesale. Years ago I used to sell them retail. That is all.

Q. But your wholesaling experience has been confined to the Curtis Publishing Company publications, then?

A. Yes, sir.

Q. How do you dispose of these publications—how do you sell them?

A. I dispose of them to sub-agents and to the dealers.

Q. You deliver to the sub-agents?

A. I deliver to the dealers and some few to sub agents, and I have a branch office where some of the sub-agents come. That is in another section of the

city. I have my office in one section of the city and the branch office in another section of the city.

Q. Do you distribute your copies through boys?

A. Most of them through boys; yes, sir.

Q. You have a staff of boys who distribute these papers?

A. Yes, sir.

Q. How many have you?

A. I have, at the present time, about 128, and I have had more and I have had less.

Q. Do these boys deal actively in other papers than the Curtis papers?

A. No; very few of them. Most of them are Curtis boys.

Q. Have they worked up their trade—these individual boys—have they their own customers?

A. Yes, sir.

Q. What type of boys are they, generally speaking?

A. Most of the boys are pretty good boys. Their parents are doctors, lawyers, mechanics, merchants, department store proprietors, and——

Q. Do you come in contact with any of the parents of these boys?

A. Yes, sir.

Q. How frequently——

A. Very frequently——

Q. How?

A. By meeting them on the streets, and a great many talk over the phone and sometimes come into the store and talk about them, and sometimes come and get the papers for their boys.

Q. A great many of them you know personally?

A. Yes, sir.

Q. And do you do any work with these boys to advance them in the business?

A. Yes, sir; I encourage them in every way possible. I give them sales talks and call attention to special articles and urge them to keep on in school and especially not to give up school, but to keep their customers.

Q. Have you had any aid or backing from the Curtis Publishing Company in this work?

A. Yes, sir.

Q. What do they do?

A. What do you mean by "aid"?

Q. Have they helped you in getting new boys?

A. Yes, sir; by offering a great many prizes, and they have advertised for boys and paid the expense, and they have sent cards to me to give our free copies to start new boys.

Q. Who is their road man in your district?

A. Mr. Baker.

Q. Has he worked with you along those lines?

A. Yes, sir.

Q. Are any of these boys members of the so-called Curtis League?

A. Yes, sir.

Q. Do many of them attain any promotion in that league?

A. I have five at the present time that are expert salesmen—four expert salesmen at the present time, and five that are now in the league.

Q. Now, take this staff of boys. What about its permanency? How long do they stay, roughly speaking?

A. Well, I have got some boys that have been selling for the—more than seven years that I have had the agency. They started in as little fellows and have grown up to fifteen or sixteen years. I have some boys then that have been with me for two or three years, but I think on the average—I think the boys will change about fifty per cent a year.

Q. They move away or just give it up?

A. A great many move away. There are not many of them give it up, unless for some great cause, that they move in a different section and have to give up the customers in the section where they live.

Q. Now, do you get other sources of revenue from the Curtis Company—sources other than just the sale of the papers?

A. Yes, I have won a great many prizes from them, and bonus money, and money from getting boys in the League?

Q. Could you sort of average that up—about how much per year?

A. Well, I think for the seven years I probably received between $500 and $600. During last year I received over $200 bonus money.

Q. About $600 over the whole period—five or six hundred dollars?

A. To the best of my knowledge.

Q. Are there any other magazine wholesalers?

A. Yes, sir.

Q. In Trenton?

A. There are.

Q. Who are they?

A. Frederick Bennett. You just want to know their names?

Q. What does he sell at wholesale?

A. Just at the present time he sells the "Pictorial Review," and he sells the monthlies, and in fact he wholesales in a certain measure. He may not hold contracts for all magazines.

Q. Has he been established there for some time?

A. Yes; a great many years.

Q. Anybody else?

A. Why, a boy by the name of Joseph Manzie. He is a young man now. He had the Hearst publications and the "Sunday Journal."

Q. In addition to those two, are there any branches of the News Company there?

A. No branches of the News Company. State Gazette Publishing Company. They handle the Crowell publications, "American," "Women's Home Companion" and "Every Week."

Q. Is that an old-established business, or a new business, do you know?

A. The Gazette Publishing Company is an old business, away back to the seventeen hundreds that was established, but of course they have only had "Every Week" for a few years—about two years, I think.

Q. Did you ever handle the "Pictorial"?

A. No, sir.

Q. Did you ever handle "Every Week"?

A. No, sir.

Q. Were you ever approached by the "Pictorial" and asked to take on the magazine?

A. I received a letter with a sort of suggestion in it.

Mr. Daly: Now, wait about that.

Mr. Milburn: I consent to strike out "with a sort of suggestion." Did the "Pictorial Review" ask you to handle their magazine, by word of mouth or by letter?

A. I think a couple of years ago.

Mr. Daly: I object to what the man thinks.

The Witness: I cannot say positively on that.

By Mr. Milburn:

Q. Do you know definitely whether or not you were asked to handle it at wholesale? If you do not know, say so.

A. I could not say for certain.

Q. Did you have any conversation with the Crowell man, about their distribution?

A. I was talking to the Crowell man a few weeks ago. He did not ask me to take the agency, but we were talking about the magazines, and he said that he had just landed twenty Curtis men from the south, and I told him I did not think that was possible.

Q. You were not approached by him?

A. No, sir; I just met him accidentally at one of the news dealers. The news dealer introduced him to me. He said he had heard of me before.

Q. Did you get a letter from the "Pictorial Review," containing extracts of evidence of this proceeding?

A. I did.

Q. You received that from them, did you?

A. Yes, sir.

MR. DALY: What proceedings?

MR. MILBURN: The proceeding before this Commission, as I understand it.

THE WITNESS: For the "Pictorial Review," that was.

By MR. MILBURN:

Q. That did not result in your handling the "Pictorial Review," did it?

A. No.

MR. MILBURN: That is all, I think.

CROSS-EXAMINATION.

By MR. DALY:

Q. Now, when did the Crowell man see you?

A. Just a few weeks ago. I met him on one of the corners in Trenton and was introduced to him as representing the Crowell Publishing Company.

Q. You could have handled his papers, could you not?

A. Could I have handled them?

Q. Yes.

A. Well, not according to my contract, I could not, no.

Q. But outside of the contract, you could have distributed his papers without any difficulty, could you not?

A. Not with convenience, no.

Q. Why?

A. Well, I haven't got the room to do it with. I am limited in room, and further, I would not have the time—too much taken up with other business.

Q. What other business do you do?

A. I am in the commercial photographing business.

Q. That is what interfered, then, with taking up Crowell; is that correct?

A. No; that did not interfere with taking on Crowell. My contract would interfere with taking on Crowell, with the Curtis, but I didn't want to take on Crowell—wouldn't care to if they had offered it to me—if they had offered it to me I would not have taken it. I have enough business now to take care of.

Q. Did Crowell say anything to you about getting the Curtis boys to handle any of these papers?

A. No.

Q. You say about half of these boys drop out? That is an average of fifty per cent?

A. Possibly fifty per cent. I couldn't state positively.

Q. You were stating approximately fifty per cent. That is what you said?

A. Well, yes, probably that in a year.

Q. This last year how many of your boys dropped out?

A. Well, I could not state definitely just how many.

Q. Well, you are not speaking definitely, but you can come somewhere near it.

A. No; I would not say, but the boys change. We get new boys and boys go out. Of course they go out and each year, as they get older, why, they get in other occupations, and a great many boys now are dropping out from time to time and turning their routes over to other boys. We are not losing any circulation from boys dropping out because we get other boys to take —come right in and take their route over.

Q. Do you go out and do that yourself?

A. Why, I am always after boys, yes, sir.

Q. Now, how many of your boys left town last year, do you know?

A. No; I could not state that.

Q. Half a dozen of them, do you think?

A. Probably half a dozen, I should think. Then they move to other sections of the city from where their customers are.

Q. How many master salesmen have they—have you had all during the time you have operated?

A. I had no master salesman.

Q. You never had a master salesman, did you?

A. No.

Q. These different Curtis salesmen that are under the Curtis plan, get into those grades because of increased circulation—increased work that they do?

A. Increased work, yes, sir, and encouragement to get the increased work.

Q. Have you a new contract?

A. Yes, sir.

Q. When was that put in?

A. February, sometime.

Q. What is the difference between that contract and the old one that you operated under?

A. Well, not a great difference, except we are now getting our papers on consignment.

Mr. Milburn: I object to his characterization of the two contracts. It is a question of law.

By Mr. Daly:

Q. What do you do under the new contracts that you did not do under the old?

A. Don't do anything. Everything is just the same, with the exception that the bond is a little higher.

Q. What is the bond in the new one?

A. $450.

Q. In the old one how much was it?

A. I don't remember the figures—130 and some odd dollars.

Q. Do you know how you arrived at the amount of the bond in the new contract? It was a cash bond, was it not, that you put up?

A. Yes, sir.

Q. Did it depend upon the number of papers you were selling?

A. Well, I suppose it does, yes. I did not pay much attention to that.

Q. What prompted you to change from the old to the new? Your old contract had not expired, had it?

A. The contracts don't expire during the old contract—unless they are cancelled by either party on thirty days' notice.

Q. What happened in your case about that?

A. What do you mean about the old contract?

Q. Yes; tell me about the changing from the old to the new.

A. Why, nothing happened only merely to change the contract. They told me they wanted to make a new contract, and I read the contract, and it was agreeable to me, and I signed it.

Q. Now, then, did you wait until you have made all of your collections from your sub-dealers, and boys, before sending in your check for your papers, under the new contract?

A. Do I wait that long?

Q. Yes.

A. No; not until I have made them all, because I sell my papers for cash, except to some of the dealers—some few—about half a dozen.

Q. When do you pay?

A. When do I pay the Curtis Company? I make a remittance every week.

Q. And as a matter of practical experience, then, there would be papers that you had not collected for in the payment every week, would there not?

A. Oh, there might be a few.

MR. DALY: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. In other words, you trust some of these dealers that you have done business with for some time; is that correct?

A. Certainly; like any business man, I trust them. Of course, if I lost them, that was my loss. I did not trust them for the Curtis Publishing Company. I trusted them for myself.

Q. There is a difference in the plan of payment now in your contract, is there not?

A. Between the new one, yes. The new contract, we pay when the copies are sold.

Q. Before you paid in advance?

A. Before, we paid in advance. I always paid two weeks in advance for my copies.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. Do you wait every time until the copies are sold and send your check?

A. Until every copy is sold?

Q. Yes.

A. Well, I send my check at the end of the week, after all the business is closed up for that week.

Q. Now, under the old plan, when did you send your check? Sent it every week, didn't you?

A. I sent a check every week, yes, sir, just the same.

Q. Just the same?

A. Well, I mean I made a remittance for the papers that I was going to order, under the old plan, two weeks in advance. Under the new plan I make a remittance each week, to pay for the copies, deducting my returns, that I have to return off of the check, to pay for the copies that I would owe them for.

Q. When do you receive the "Posts"? What day of the week do you receive them?

A. What day of the week?

Q. Yes.

A. I usually receive them on a Thursday.

Q. Now, then, when will you send your check?

A. I receive my copies on a Thursday. For instance, yesterday was Thursday; I would receive "Posts" yesterday for next Thursday.

Q. When do you send your checks?

A. What for, those copies?

Q. For yesterday's papers? When are you going to send your check for yesterday's papers?

A. I don't have to send that check until after they are sold.

Q. As a matter of fact, what have you been doing? I am trying to get at how soon after you receive them you send it?

A. After the sales day.

Q. When is the sales day?

A. After they are sold. We sell them on Thursday. The sales day is Saturday and I make up my orders Saturday night and I send a new order, and I send a check for what I owe them at the same time.

Q. Just the copies sold? If you have any copies on hand, do you include them in your check?

A. I always balance off there—deduct the returns.

Q. Now, you have an issue in your place now for next Thursday's distribution?

A. I suppose so. I would not swear to that.

Q. Well, that is the custom?

A. Yes; I left there yesterday morning before they came in.

Q. Now, when will you pay for them?

A. I will sell those next Thursday, and Saturday I will write a check out.

Q. Do you take any account of the returns in that check that you send next Saturday?

A. Certainly.

Q. How do you know how many there will be?

A. Well, I don't take the returns of that particular issue. I take the returns of the issue that I return at that time, and deduct from that check.

Q. Of the week before?

A. Of the week before. That is, I deduct that amount of money from my check.

Q. And then, as a matter of fact, you would be returning the following weeks papers that you actually had received the week before, would you not?

A. I am allowed two weeks to make my returns in. I deduct that amount of money from the check. The returns may not count on that check, but I just deduct that amount of money from the check that I would send them. I always try to have sufficient money there to keep things balanced.

Q. How many "Posts" did you handle when you took over the agency?

A. "Posts?"

Q. When you made your first contract?

A. When I made my first contract?

Q. That is the old contract I have been talking about here.

A. Sixteen hundred, I think it was.

Q. How many "Journals"—did not have the "Journal" at first, did you?

A. Yes, sir. It was either 600 or 700—I could not say positively.

Q. How many "Posts" are you selling now, or do you sell under the new contract? How many are you selling?

A. I am selling about 3200 now.

Q. And how many "Journals"?

A. From 2200 to 2400.

Q. How large a place is Trenton?

A. About 110,000—something like that.

MR. DALY: That is all.

By MR. MILBURN:

Q. And your business has steadily increased, as the years went by, in the Curtis publications?

A. Yes, sir; it has.

MR. MILBURN: That is all.

EXAMINER MOORE: Call your next.

(Witness excused.)

MR. MILBURN: Mr. Lazarus.

---

ISAAC B. LAZARUS, called as a witness in behalf of the respondent, being duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Where do you live, Mr. Lazarus?

A. Rochester, New York.

Q. What is your business?

A. Newsdealer in Curtis magazines.

Q. You wholesale the Curtis magazines?

A. I wholesale the Curtis magazines.

Q. You are the district agent?

A. I am the district agent.

Q. Do you wholesale any other magazines?

A. No, sir.

Q. How long have you had your Curtis contract?

A. About thirteen or fourteen years.

Q. You sell your papers, I presume, to dealers and to boys?

A. To dealers and to boys, yes, sir.

Q. How many boys have you?

A. I have about 220 boys that sell the "Posts" and the "Journals," and about 30 or 35 corner boys.

Q. Newsboys?

A. Newsboys, sell Curtis magazines and papers, etc.

Q. Of the 220, do any of them do any selling other than Curtis publications?

A. No, sir.

Q. They have their own customers?

A. Own customers, yes.

Q. What kind of boys are these?

A. They are all good class of boys. Their fathers are lawyers, doctors and business people.

Q. You went out and got these boys?

A. Yes, sir; I went out and got those boys.

Q. How did you get them?

A. I have different ways of getting boys—boys that sell for me. They bring them to me, and then again I am in a business place where there are 340 offices in it, all lawyers, doctors, and all class of business peoples, and their sons sell for me. They tell their boys to sell. Once in a while we would be offered different ways of getting them, through newspapers; Curtis has a way of putting it in the papers, you know, getting boys, and it is easy to get boys any way.

Q. You never have any trouble?

A. Never have trouble getting boys at all; no, sir.

Q. Do you work with the Curtis Company, with their own men there in getting them and keeping them efficient?

A. Yes, sir; I do.

Q. And you report on these boys every week, the results of their efforts, do you not?

A. Every week; yes, sir.

Q. Are any of these boys members of the Curtis League?

A. Yes, sir; well, we have about four master salesmen and about three league salesmen.

Q. Any plain League members?

A. Yes, sir.

Q. Have you got any expert salesmen of the middle class?

A. We have got some, I think. I am not sure. I think I have.

Q. If they sell enough papers, they get advanced in rank in the League?

A. Yes, sir; get advanced in rank in the League.

Q. Do you have any contracts with their school teachers?

A. Yes, sir; I do.

Q. What do you do?

A. I know them all personally. They are glad to send boys to me.

Q. You work with the school teachers in getting boys?

A. Yes, sir; work with the school teachers in getting boys. Then, we also have about ten boys that I guess the Curtis Publishing Company paid their way through the Y. M. C. A.

Q. And you work with the Y. M. C. A. there?

A. Yes, sir.

Mr. Daly: Do not have any guessing about it.

By MR. MILBURN:

Q. Do you know whether the Curtis Company has done that?

A. Yes, sir.

Q. Now, how many other wholesalers of magazines are there in Rochester?

A. There is one, Manson News Agency, and the Rochester News Company.

Q. What is the Rochester News Company?

A. They handle all magazines. That is a branch of the American News Company.

Q. What is the other?

A. Manson News Agency.

Q. Does that handle other magazines?

A. Yes, sir; and papers.

Q. Are those old-established concerns—been there for some time?

A. Yes, sir; some time.

Q. Have you ever handled the "Pictorial Review"?

A. No, sir; I retail them.

Q. Have you ever been approached by them? Did they ever ask you to handle it?

A. Yes.

Q. When they approached you and asked you to handle their magazines, was this other wholesaler there doing business in the town?

A. Yes, sir.

Q. What proposition did the "Pictorial" make to you?

A. They wanted me to handle this. They have been after me for some time—came in to see me half a dozen times—a couple of men, their representatives, and I told them—I says I didn't want to handle the magazines—got enough magazines now that I want to handle, and still they came after me.

Q. Did they say anything about boys?

A. Yes; I got a letter from them once, stating they wanted me to handle them through the boys and different ways.

MR. WALSH: I move to strike out what was contained in the letter, because the letter is the best evidence.

EXAMINER MOORE: Is the letter already in evidence?

MR. WELCH: Not a letter to him, but similar letters which I am going to find and let him read and say if that is a similar letter to the one he received.

By MR. MILBURN:

Q. While he is looking for that I will ask you what about the permanency of these boys? Do some of them stay with you for some time?

A. Yes, sir; they do. I have got boys selling for nine or ten years.

Q. Then, of course, there are some of them sell a shorter time?

A. Yes, sir.

Q. Could you make any average of about each year —what is the turnover in your staff?

A. Well, the boys keep on selling till they graduate in the public school, then go to high school. Then when they go in the high school for three years, they might drop out. I have several families in Rochester—four or five boys sold for me, beginning from the oldest to the last boy.

Q. One of your boys won a big prize?

A. Yes; two boys in Rochester won bonuses.

Q. One of them won the gold watch?

A. Several boys won fifty dollars in prizes, and so forth.

Q. Well, now, you have got bonuses and prizes out of it yourself, have you?

1605

A. Auburn, Maine; the Goldsmith Company, of Salem; Arkalin, Newburyport, Mass.—I think that completes them.

By Mr. Spiess:

Q. Is that all that you know of that handle "Pictorial"?

A. That do handle them?

Q. That did handle them?

A. That is all my present list of agencies.

Q. Did you make the investigation in Lowell, Mass.?

A. Yes, sir.

Q. Did you find anyone there handling "Pictorial Review"?

A. Yes, sir.

Q. Who?

A. Mr. Katze.

Q. Is he your agent?

A. No, sir.

Q. How long has it been since he was not?

A. Why, a matter of—let me see—about three weeks.

Q. Three weeks?

A. Yes, sir.

Q. How long since you were there at Lowell?

A. I left Lowell Wednesday.

Q. This previous Wednesday?

A. Yes.

Q. Have you not testified that you finished this investigation about three weeks ago?

A. Yes.

Q. Now, you tell me that when you made this investigation at Lowell, Mass., Katze was not handling the "Pictorial Review"?

Mr. Milburn: I object. You have not been dead three weeks, have you? He has testified he

closed the investigation. He gives the present circumstances, as far as he knows.

MR. SPIESS: He stated he finished this investigation three weeks ago.

MR. MILBURN: That is true.

MR. SPIESS: I asked when he made this investigation if Mr. Katze was handling the "Pictorial Review" and the Curtis Company publications and he said no.

MR. MILBURN: I did not understand the whole question.

MR. SPIESS: He said Katze ceased to be the Curtis agent about three weeks ago. If he made his investigation a little over three weeks ago Katze must have been the agent for the "Pictorial Review," when he made the investigation, but he said no.

By MR. SPIESS:

Q. When were you in Lowell on this investigation?

A. I guess I will get down and give you the exact date.

Q. You can approximate it; I do not care for the exact date.

A. You want to know when I was in Lowell in the investigation?

MR. WELCH: He wants to know the date.

A. I completed my investigation in Lowell approximately five weeks ago.

By MR. SPIESS:

Q. At that time, then, do you know whether Mr. Katze was an agent of the Curtis Company?

A. I do.

Q. Do you know whether or not he was handling "Pictorial Review"?

A. I do.

Q. Now, do you know whether or not Mr. Katze is now an Agent of the Curtis Publishing Company?

A. I do.

Q. Is he?

A. No, sir.

Q. Do you know why he is not?

A. Yes, sir.

Q. Please state why?

A. Because I excused him as an agent.

Q. Why?

A. Because of the fact that Mr. Katze had not kept his contract with the Curtis Publishing Company.

Q. What contract?

A. The specific reasons, I presume, are what you wish for?

Q. Just state them.

A. Improper or inaccurate reports of sales to boys and dealers; late remittances; also late sending or forwarding of orders for copies, and also the fact that he was wholesaling "Pictorial Review."

Q. Now, Mr. Pollister, of Auburn, is your agent?

A. He is.

Q. And how long has he been handling "Pictorial Review" wholesale?

A. I do not recall how long he has handled it.

Q. Is he handling it now?

A. No, sir.

Q. Do you know why?

A. Why, the reason that he gave me was that the sales were not sufficiently large enough to prove attractive to him.

Q. Did you say anything to him about not handling "Pictorial Review"?

A. Prior to the time that he had discontinued, you mean?

Q. Yes.

A. I do not recall that I did.

Q. Did you not have instructions from your home office to give, in unmistakabe terms, to any agent that you found handling "Pictorial Review"—that they must give it up? Were not those your instructions from your home office?

A. I cannot recall the exact wording of the instructions I received from the home office.

Q. In substance, you did receive that instruction, did you not?

A. I received the bulletins by means of which the home office issues my instructions.

Q. Did you not receive, in substance, that instruction, to inform any Curtis agent in unmistakable terms, that they must cease handling "Pictorial Review," or their agency would be canceled?

A. I think I am correct, sir, in making the statement that at the time Mr. Pollister notified me he had discontinued, that I had received no such instructions from the home office.

Q. Prior to that?

A. Prior to the time of seeing Mr. Pollister.

Q. That you had never received——

A. That I had not received such instructions.

Q. When did you see Mr. Pollister, prior to his giving up the "Pictorial Review"?

A. Well, it was some time in December, 1917.

Q. When was that?

A. In December, 1917.

Mr. Milburn: What was that question, Mr. Stenographer?

(The stenographer repeated the question, as follows):

"Q. When did you see Mr. Pollister, prior to his giving up the 'Pictorial Review'?"

By Mr. Spiess:

Q. When did he give up the "Pictorial Review"?

A. I could not give you the exact date, because it was some time about the middle of December, I think.

Q. The middle of December?

A. The middle, or somewhere right around the 15th or the 20th.

Q. What date did you see him in December?

A. I cannot give you the exact date in December that I saw him.

Q. But it was December, prior to his giving up the "Pictorial"?

A. Yes, sir.

Q. At that time did you say anything to him about giving up the "Pictorial Review"?

A. I cannot recall the details of the conversation, or of any conversations, sir.

Q. What was the general purport of your conversation with Mr. Pollister on this visit?

A. If there was anything brough up with reference to the "Pictorial Review," as to his actions, my policy with Mr. Pollister, as with other agents, would be to refer them to any letter that they had received from the Boston office, and to write to the Boston office for further information regarding what our attitude would be.

Q. Do you know what the attitude of the Curtis Publishing Company was as to district agents handling "Pictorial Review"?

A. Did I personally know?

Q. Yes.

A. Yes, sir.

Q. What was it?

A. That we did not care to have the two agencies remain together—the "Pictorial Review" and the Curtis Publishing Company.

Q. They did not care to have, or would not have?

A. As you see fit to phrase it.

Q. I ask you.

A. That they would not have.

Q. There is an exhibit here, "Commission's Exhibit No. 194, Bulletin No. 265." It has been testified that these bulletins were issued to the roadmen of the Curtis Publishing Company, and this particular bulletin that I speak of contains instruction as to Group 1, which includes "Everyweek," "Woman's Home Companion" and the "American Magazine," and Group 2, which contains instruction to the roadmen as to "Pictorial Review," etc. Do you ever remember receiving that bulletin?

A. May I see it?

Q. Sure.

A. Yes, sir.

Q. You remember receiving that?

A. Yes, sir.

Q. Did you follow out the instructions contained in that bulletin in all cases?

A. I endeavored to.

Q. Did you?

A. Not having refreshed my memory by reading the exact instructions in the bulletin, I am not prepared to state without a careful reading of it. Again, I notice that the copy you offer for my inspection bears no date, and I cannot state under what date that bulletin was issued. Again, even if it bore a date, I cannot state on what date I received the bulletin, for the simple reason that my bulletins come through the Boston office, necessitating a delay of from twenty-six to forty-eight hours longer than if mailed direct.

Q. You cannot say whether you received this bulletin?

A. I received a bulletin similar to that, but I can-

not say what date, from your copy there, that that bulletin was effective with me.

Q. Can you state what date you received that bulletin?

A. No, sir; these copies are on file in Portland, Maine. If I had my files with me, I could give you the exact date.

Q. Can you give the date, Mr. Douglas?

MR. DOUGLAS: It is my impression it was issued prior to April, 1917.

MR. WELCH: In April or prior to April?

MR. DOUGLAS: In April, or prior to April, 1917; that is my impression.

By MR. SPIESS:

Q. Now, what magazine does Mr. Pollister handle at Auburn, Maine?

A. At the present time?

Q. What other magazines besides the Curtis magazines does Mr. Pollister, of Auburn, Maine, handle?

A. From the magazine standpoint, on a wholesale basis, he handles nothing but the Curtis publications.

Q. Nothing but Curtis?

A. No, sir.

MR. MILBURN: Who is that—Pollister?

A. Yes, sir.

By MR. SPIESS:

Q. Does he wholesale newspapers?

A. Yes, sir.

Q. What newspapers does he wholesale?

A. The Boston daily newspapers.

Q. What other wholesaler is there in Auburn, Maine, of magazines and newspapers?

A. I have listed here Mr. J. J. Mullane, of Lewiston, who supplies the dealers, or did two months ago, with the Crowell publications.

Q. From Lewiston?

A. From Lewiston, yes, sir.

Q. But is there any other wholesaler in the city?

A. Right in the city?

Q. Yes, right in the city?

A. I have listed here a boy by the name of Raymond Ritz, who handles the "Pictorial Review."

Q. Are there any others?

A. No other magazine wholesalers.

Q. Any other wholesalers of newspapers?

A. A Mr. Bater, who handles the Boston Sunday papers only.

Q. Boston Sunday papers only?

A. Yes, sir.

Q. As a matter of fact, Mr. Pollister was the only wholesaler of magazines in the city of Auburn, was he not?

A. Yes, sir.

Q. And he gave up the "Pictorial Review" because he had been notified by the Curtis Publishing Company that it was in violation of his contract?

A. Yes, sir.

Q. Did you not call attention to the fact that he was violating his contract in wholesaling "Pictorial Review?

A. I presume that I did.

Q. And you were instructed to do that, were you not?

A. I presume I did, because I am quite sure that I asked him if he was wholesaling it, to verify what information I had secured from outside sources.

Q. Now, Mr. Goldsmith, of Salem, Mass.—is he wholesaling "Pictorial Review"?

A. He was the last time I knew of it.

Q. When was that?

A. I think I stopped over there in Salem something like between three and four weeks ago.

Q. How long has Mr. Goldsmith been wholesaling "Pictorial Review?"

A. Well, he has been supplying certain dealers there in Salem for an indefinite period.

Q. How long has he been wholesaling "Pictorial Reviews" that he received direct from the Pictorial Review Company?

A. I cannot give the exact date, because I do not know exactly when his arrangement went into effect, but I think very nearly a year.

Q. Is he the district agent, too, for the Curtis Publishing Company?

A. Yes, sir.

Q. Do they know he is wholesaling "Pictorial Review"?

A. Yes, sir.

Q. Do they object to his wholesaling it?

A. Yes, sir.

Q. They have not taken the district agency away from Mr. Goldsmith on that account?

A. No, sir.

Q. Do you know why they have not?

A. Why, unfortunately, because my capacity for covering the territory is not great enough to permit me to arrive in Salem at any earlier date than the present.

Q. Have you any authority to terminate Mr. Goldsmith's agency?

A. I should, if in visiting the town the conditions warranted it.

Q. Do the conditions warrant you in terminating it?

A. As conditions were when I was there last, yes.

Q. When were you there last?

A. As I say, something like three or four weeks ago.

Q. Why did you not terminate it then?

A. Because I did not have the opportunity to look the ground over and select a proper successor.

Q. Are you contemplating cutting Mr. Goldsmith off?

A. What do you mean by cutting him off?

Q. Taking the Curtis publications away from him?

A. It is a bit difficult to forecast what I shall do. When I arrive at the town, it will depend on conditions as I find them.

Q. What conditions do you refer to?

A. General wholesale conditions.

Q. Prior to the time you last visited Salem, what date were you there?

A. I cannot give it to you offhand.

Q. Has it been three months ago?

A. I should not say as long as that.

Q. Was Goldsmith handling the "Pictorial Review" then?

A. Yes, sir.

Q. Did you know it?

A. Yes, sir.

Q. Why did you not cancel his agency then?

A. Simply because, as I said, I did not have an opportunity to look over the ground and make a proper selection of a successor.

Q. As a matter of fact, have not you or some representative of the Curtis Publishing Company endeavored to stop Mr. Goldsmith from wholesaling the "Pictorial Review"?

A. No, sir; I have no knowledge that that has been done.

Q. You have no knowledge that that has been done?

A. No, sir.

Q. Were you present at the hearing in Boston when Mr. Goldsmith testified?

A. I was.

Q. Do you recall whether or not Mr. Goldsmith testified that he had been approached by the Curtis Publishing Company to cease handling "Pictorial Review"?

A. My impression is that that was in his testimony; yes, sir.

Q. Do you wish to say whether or not that is true or false?

A. No, sir; I wish to make no statement in regard to that.

Q. Then, you wish to state that you do not know that Mr. Goldsmith has been approached by the Curtis Publishing Company to cease handling the "Pictorial Review" in a wholesale manner?

A. Of my own knowledge. I have no knowledge that he has been so approached.

Q. What is it you testify now that the reason why you have not taken any action in Mr. Goldsmith's case is because you have not had time to get to Salem to look around for another district agent?

A. Why do I testify to that?

Q. Yes.

A. Simply because it is the fact.

Q. Why are you looking for another agent?

A. To replace Mr. Goldsmith in case it becomes necessary.

Q. In case it becomes necessary?

A. Yes, sir; if conditions warrant it when I reach the town.

Q. What conditions are you speaking of now?

A. Well, circulation matters in general, as well

as the method of handling our reports; as well as affiliation with the "Pictorial Review."

Q. How long has Mr. Goldsmith been handling the Curtis publications wholesale?

A. Why, for a considerable period of time. I should say, say—I think I have that here.

Q. For a number of years?

A. Yes, sir; for a number of years.

Q. Has not his services always been satisfactory and efficient to the Curtis Publication Company, as far as you know?

A. The circulation figures unfortunately for the city of Salem do not show a holding of intensive circulation or a sufficient number of boys to compare favorably with other cities in my territory?

Q. You think that is due to Mr. Goldsmith's inactivities?

A. I would rather put it diversion of effort.

Q. Now, you say that the circulation of Salem is not all that is to be expected of a city of that size.

A. Yes, sir; I believe that I made that statement.

Q. What is the circulation of Salem?

A. I shall have to refer to some records for the figures. I have mislaid my Salem card.

MR. DALY: Is not this the situation? When you go back, if you find he is still handling the "Pictorial Review," that will be sufficient cause to remove him and get somebody else—you are instructed to do that, as you have testified. Is not that all there is to it?

MR. MILBURN: I do not think there is any question about that.

THE WITNESS: I think that will be a sufficient cause.

MR. MILBURN: I think it has been admitted.

By MR. SPIESS:

Q. Who else is wholesaling in Salem—wholesaling magazines?

A. The New England News Company.

Q. Are they a branch of the American News Company?

A. I understand they are. I have no absolute knowledge, only what is common knowledge.

Q. Is there any other wholesaler there?

A. In the city?

Q. Yes.

A. No, sir; not to my knowledge.

Q. Then, as a matter of fact, Mr. Goldsmith is the only wholesale distributor outside of the American News Company in Salem?

A. At the present time; yes, sir.

Q. He has, to your knowledge, been handling the "Pictorial Review," for a year, has he not?

A. Yes, sir.

Q. And to your knowledge they have tried to get him to cease handling the "Pictorial Review"—is not that true?

A. I made a statement that I had no absolute knowledge of it.

MR. WELCH: He said he had no knowledge. There are plenty of letters in the record that show that.

MR. SPIESS: I want to refresh his recollection.

MR. WELCH: He said he had no knowledge of this. You cannot pump knowledge into his head.

By MR. SPIESS:

Q. Did you not hear Mr. Goldsmith state, in this proceeding, that he had been ordered to cease his wholesale handling of the "Pictorial Review"?

A. I would not want to make any statements as to the details of that hearing. My impression is that Mr. Goldsmith made a statement similar to that, but I could not make a definite statement regarding it.

Q. Have you ever talked this matter over with Mr. Flanders, about Mr. Goldsmith handling the "Pictorial Review"?

A. Yes, sir.

Q. Then you did know it?

A. I knew of the general attitude that the Boston and Philadelphia officers had toward all agents handling "Pictorial Reviews."

Q. Why have you not changed Goldsmith's agency, knowing he had been handling "Pictorial Review" for the last twelve months against the wishes of the Curtis Publishing Company?

A. Because I had not had an opportunity to change the agency?

Q. But you have been in Salem off and on for the past twelve months?

A. Yes, sir.

Q. Are you willing to say, on the record, that you are going to change Goldsmith's agency, unless he gives up the "Pictorial Review"?

A. And let my general instructions covering all agencies or changes; yes.

Q. Your general instructions?

A. Yes, sir.

Q. Have you any specific instructions?

A. For each town?

Q. Yes.

A. Only suggestions from Mr. Flanders, in which order shall proceed.

Q. Had you specific instructions as to Goldsmith?

A. No, sir; not at present.

Q. But your general instructions are to change his agency, if, when you get back there, you find him handling "Pictorial Review"—that is, if you can find another agent?

A. Not if I can, but to go out and find him.

Q. Is this the only instance of an agent handling "Pictorial Review" in the last twelve months that you have not changed, if he did not give it up?

A. No.

Q. What other instance?

A. There is another instance at Newburyport.

Q. What is that?

A. The Newburyport News Company, our old friend Arkalian.

Q. How long has he been handling "Pictorial Review?"

A. About the same time as Mr. Goldsmith, I should think, although I have no knowledge of when their direct arrangements became effective.

Q. Are they handling Curtis publications?

A. Yes, sir.

Q. Also handling the "Pictorial Review"?

A. Yes, sir.

Q. Have you changed their agency?

A. No, sir.

Q. Why?

A. I fell down on the job.

Q. What do you mean by that?

A. I did not make good in getting another agent.

Q. Why?

A. Because I was not a good enough man to locate another man to handle the agency.

Q. Do you find that often the case?

A. If it was the general rule, I do not think Curtis would have much use for me.

Q. For you?

A. No, sir.

MR. DALY: Do you mean it is difficult or because you did not get to it?

THE WITNESS: Because I did not get after him——

By MR. SPIESS:

Q. Is it your fault you did not get an agent or did not try?

A. I tried.

Q. You did try—you went after different people to take on this agency and did not succeed?

A. Yes, sir.

Q. How many times did you try?

A. You mean how many repeated visits to the town?

Q. How many people did you see in your attempt to get some one to handle the agency?

A. I think I approached—two or three people—yes; I think I approached four people with reference to handling our agency.

Q. But you were not successful in getting them?

A. No.

Q. They are still handling the "Pictorial Review" and the Curtis publications?

A. Yes, sir.

Q. Take the case of Katze, in Lowell. How long did Katze handle the "Pictorial Review" before he was cut off?

A. I imagine the same length of time as these other two cases in question, although I have no accurate knowledge of when their "Pictorial" arrangements became effective.

Q. So Katze is no longer the Curtis agent?

A. No, sir.

Q. Who is your agent there now?

A. Mr. Henry P. Clough.

Q. How long has he been your agent?

A. Commencing with the last issue of our publication in the month of March.

Q. What year?

A. This year, 1918.

Q. Does he wholesale any other magazine?

A. No, sir.

Q. Does he wholesale any other newspapers?

A. No, sir.

Q. Do you pay him a salary for distributing these publications?

A. No, sir.

Q. How is he reimbursed?

A. By his commissions from the sale of our publications.

Q. Is that the only reimbursement he gets?

A. With a guarantee that the amount of his earnings shall not fall below a certain figure.

Q. What figure is that?

A. That his earnings shall be at least twenty-five dollars a week.

Q. What is the circulation of the "Post" in Lowell?

A. The circulation, through our district agent approximates eleven or twelve hundred "Posts" per week.

Q. What is his drawings of the "Journal"?

A. Eight hundred copies.

Q. What is his "Country Gentleman"?

A. Four hundred or four hundred and twenty-five.

Q. Now, admitting that he sold all the publications of his allotment, would they give him $25.00 a week commission?

A. Not quite—a shade under that, sir.

Q. Is it not considerably under $25,00 a week?

A. Well, just figuring the commissions alone on

the magazines; yes, but figuring in the bonus payments for starting new boys and building up the organization, which is a legitimate income—or at least I should so consider it——

Q. Has he been engaged on that since March?

A. Yes, sir; very actively.

Q. What bonus has he earned since he took on the publications in March?

A. Inasmuch as the bonus proposition for starting new boys is dependent on a certain sales covering a period of a few weeks, it is impossible to determine exactly what his bonus earnings may amount to.

Q. But he has not had a bonus so far?

A. He has not had anything credited to him as yet.

Q. Then the Curtis Company has paid him over fifty per cent. a week?

A. I do not think the Curtis Publishing Company has paid him a cent yet, as the adjustment on the weekly income basis is not to be made until—well, say a period of four or five weeks after we get our returns in, so we will have some basis on which to make such an adjustment.

Q. But they guarantee him $25.00 a week?

A. Yes, sir.

MR. SPIESS: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. Is it not true, that during the last few months you have been particularly engaged in securing information required of you from the main office, somewhat to the neglect of your other duties?

A. Yes, sir.

Q. Do you remember a period along about last April, when, for some time, you were acting under instructions to change no agents—do you recollect that?

A. I think that came a bit later than April, did it not—a year ago?

Q. There was a period of time when you made no changes, was there not?

A. Yes, sir.

Q. And after that you began making changes?

A. Yes, sir.

Q. Now, several towns have been mentioned in your cross-examination here. We will take up Manchester first. How many magazine wholesalers are there in Manchester?

A. There are at least——

Q. If this will refresh your recollection, you may have it (handing paper to witness).

A. I have three magazine wholesalers listed here.

Q. Who are they?

A. Mr. Southard, who handles the Curtis—do you wish the magazines that they handle indicated for each one?

Q. Yes.

A. Mr. Samuel Black, who signed the contract for Black Brothers, who handles the Curtis and Hearst line.

Q. I understand Mr. Black handles the dealer's output?

A. Yes, sir; and the City News agency, which handles Hearst, Crowell's, "Pictorial," "Collier's" and "Motion Picture."

Q. The City News Company—was that the company to which you referred to as being one of the large wholesalers?

A. I think I included that as a comparative.

Q. How about newspaper wholesalers in Manchester?

A. I have just the City News, which handles all the

Boston papers, excepting the "Boston American"; Mr. Black handles the "Boston American."

Q. Now, what is the situation with reference to Salem, Massachusetts?

A. The situation there regarding Salem is that Mr. Goldsmith handles all magazines and all Boston and New York papers; the only other wholesaler is the New England News Company, which distribute through the team or auto delivery.

Q. It handles by immediate delivery?

A. Yes, sir; direct delivery.

Q. And these two agencies also handle newspapers?

A. Yes, sir.

Q. With reference to Auburn, Maine?

A. Mr. Pollister, of course, handles our magazines.

Q. Does he handle only our magazines?

A. For magazines; he handles the Boston papers.

Q. Do you wish just those agents in the city of Auburn?

Q. You spoke of Mr. Mullane, who handles from Lewiston. How does he operate?

A. As I understand, he drives across the bridge with a team.

Q. How far is it?

A. Maybe a quarter of a mile over the hill and across the bridge.

Q. That is practically in the city?

A. Yes, sir; the two cities are practically together, and then there is this Raymond Ritz, the young man who handles "Pictorial Review," and Mr. Baker, who handles the Boston Sunday papers.

Q. Mr. Pollister only handles the Curtis papers?

A. For magazines.

Q. Has he ever handled any other magazines?

A. Yes, sir. the Crowell and "Pictorial," but he discontinued them.

Q. What magazines did he handle first—do you know that?

A. Curtis—we put him in business.

Q. In Lowell, Massachusetts——

A. I have Mr. Katze there as the wholesaler of the Hearst line, all magazines, and the Boston "American." He also handles "Munsey," the Warner group, "Pictorial Review" and "Collier's." The Lowell News"——

MR. SPIESS: Who is this?

THE WITNESS: This is Lowell—the Lowell News handles all the Boston papers except the "Boston American."

By MR. MILBURN:

Q. And all magazines?

A. And all magazines.

Q. What is the Lowell News Company?

A. I understand it is a branch of the New England News Company, of Boston.

Q. There is also a Curtis agency established there now?

A. Yes, sir.

Q. What is his name—did you say?

A. Mr. Clough.

Q. In Lawrence, Massachusetts, who are the wholesalers there?

A. We have Mr. Sam Black, who handles the Curtis and Hearst magazines and the Boston "American"; Mr. Samuel Katze, who handles the Lawrence "Sun American," and a local paper; Mr. Sam Friedman, who handles the Munsey magazines, "Collier's," the "Digest," "Pictorial," the Warner line, the "Boston Globe" and "Herald," the "Traveler" and the Lawrence "Eagle"; T. Kelly & Sons, who handle the Crowell line, the "Ten Story Magazine," the Boston "Post," "Record" and "Transcript.'

Q. Mr. Black is our agent, is he not?

A. Mr. Black is our agent; yes, sir.

Q. At Haverhill, Massachusetts——

A. I have Mr. Schlasman, who is our agent, who handles the Curtis line, "Hearst" "Munsey," and Warner, besides the daily and Sunday "American," together with the Sunday "Post" and "Globe"; Fox Brothers, who handle the Crowell, "Pictorial" and all Boston papers, except the "American."

Q. Portland—what wholesalers have you there?

A. At Portland, we have the Eastern News Company.

Q. What do they handle?

A. They handle magazines.

Q. Is that connected with the American News Company?

A. It is either a branch of the American News Company or of the New England News Company—which, I do not know.

Q. You do not know?

A. No; we have the J. W. Petersen Company that handles the Curtis magazines and generally all magazines.

Q. Do you know whether they began with the Curtis publications first?

A. They did not.

Q. Who else wholesales magazines there?

A. We have no other magazine wholesalers there. We have three other——

Q. How about Chism Brothers—are they located there?

A. I have perhaps defined a wholesaler as one who supplies to the local dealers. Chism Brothers handle their supply simply for train agents operating along the Maine-Central Line and a certain portion of the Grand Trunk and one section of the Boston and Maine.

Q. Is it not true that anyone can get magazines from them that wants them?

A. At present they tell me they do not wholesale; whether if the attempt were made to get them to wholesale, it would receive a favorable reception, I do not know, but they make no attempt to do other than railway news business.

Q. Has our agency been changed there recently?

A. No, sir.

Q. Do you know whether any application was made by Chism Brothers for the Curtis Agency—is that within your knowledge?

A. Why; yes, sir; I understand that they have applied.

Q. Who is William McKone?

A. He handles in one section of the town a branch distributing station for the Curtis magazines.

Q. Who is Harry Fessenden—what does he handle?

A. He handles in one section, comprising the largest and best residential section of the town, the Boston daily and Sunday papers, retail and wholesale.

Q. George P. Nash?

A. He has another residential section of the town and handles Sunday papers and Boston and Portland papers.

Q. Wholesales them?

A. Yes.

Q. In Rutland, Vermont, how many wholesalers in magazines are there?

A. We have three there.

Q. When you say "we" you do not mean the Curtis Publishing Company?

A. I beg your pardon. I meant there are three there—August Polson, who handles the Curtis, Hearst and Warner lines, and "Motion Picture," and also the

Boston papers, the Boston "Globe," and the New York papers; we have J. J. Carbine, who handles the Boston Sunday "Globe" and "Pictorial Review"; Howley Brothers, who handle the Boston "Globe," Boston "Post," New York papers, and "Collier's" and "Pearsons."

Q. So, reverting again to your activities in your supervision of your agents in your district, your activities in your supervision of your agents in your district have been somewhat limited by your activities in this case?

A. Yes, sir.

Q. In securing information both for us and for the Federal Trade Commission?

A. Yes, sir.

MR. MILBURN: That is all.

RE-CROSS-EXAMINATION.

By MR. SPIESS:

Q. These cards from which you are testifying—are those cards you made in the course of your investigation?

A. Yes, sir.

Q. Do those cards contain information as to what you have been testifying to here—how did you supply the Curtis Publishing Company with this information you are testifying about?

A. By personal investigation.

Q. No; I mean how did you supply it to them?

A. On sheets prepared and furnished by the Curtis Publishing Company.

Q. What are these cards you have been referring to?

A. Simply cards I made from those sheets.

Q. And you are testifying from those cards to re-

fresh your memory as to the reports you made to the Curtis Publishing Company?

A. Yes, sir; I should have stated that.

Q. You put some of the cards in your pocket. What are they?

A. Simply a portion of these.

Q. You do not mind my looking at them?

A. Surely not.

MR. MILBURN: You can look at the reports, if you wish.

THE WITNESS: They are the same thing.

MR. MILBURN: You signed the report and kept your own personal copies?

THE WITNESS: Yes, sir.

MR. SPIESS: I just want to ask a couple more questions.

By MR. SPIESS:

Q. How long has Black, at Lawrence, been the Curtis agent?

A. He was appointed some time last fall by Mr. Flanders, of the Boston office, and for that reason I am a little bit lame, perhaps, in fixing the exact date.

Q. Just approximately.

A. I do not know whether I have it noted.

MR. MILBURN: The last issue of November, 1917.

MR. SPIESS: Of what?

MR. FLANDERS: The last issue of the "Post" and "Country Gentleman" in November, 1917.

By MR. SPIESS:

Q. Do you know what Mr. Black was handling before he became the Curtis agent?

A. The situation changes so rapidly there in Lawrence, frankly, I do not know. I do not know whether Mr. Black took our agency before he took up any other, or had any besides ours first. I do not know who appointed him first.

Q. Who appointed Mr. Black?

A. Mr. Flanders.

Q. Did you know Mr. Black before he was appointed?

A. Yes, sir; I know him personally.

Q. Had you ever been in his place of business before he was appointed?

A. Yes, sir.

Q. Did you ever talk to him before he was appointed?

A. Yes, sir.

Q. You do not know what he was handling before being appointed Curtis agent?

A. No, sir.

Q. Do you know what business he was in before he became Curtis agent?

MR. MILBURN: You can get that information from Mr. Flanders.

THE WITNESS: I think Mr. Flanders can give it to you better than myself.

MR. SPIESS: He testified about Mr. Black and I thought he made an investigation, and that he was familiar with it.

MR. WELCH: He did make the investigation.

MR. SPIESS: I thought he was familiar with it.

MR. WELCH: He may not be familiar with all matters connected with a man's agency.

MR. SPIESS: All right; we will ask Mr. Flanders about it.

MR. DALY: Why cannot we have those reports for the purpose of the cross-examination.

MR. MILBURN: Any witness that has gone on the stand, you can, Mr. Daly. I think we can get every road man for you and hand it over to you.

MR. DALY: If we had them here, we could intelligently talk to the witnesses about these things.

MR. MILBURN: We can get them.

MR. DALY: If you have them ready for us, hand them to us.

MR. MILBURN: Just the way we did the others?

MR. DALY: Yes.

MR. SPIESS: Tomorrow, then, we want Mr. Kelly back to take his reports.

EXAMINER MOORE: Is that all for tonight?

MR. WELCH: Nothing further tonight.

EXAMINER MOORE: We will adjourn until tomorrow morning at ten-thirty.

(Whereupon at 5.35 o'clock P. M., an adjournment was taken until tomorrow (Saturday), April 20, 1918, at 10.30 o'clock A. M.)

BEFORE THE FEDERAL TRADE COMMISSION.

*The Federal Trade Commission*
v.
*The Curtis Publishing Company.*
} Docket No. 15.

Court Room 2, Woolworth Building,
New York City, N. Y.,
Saturday, April 20, 1918.

The hearings in the above entitled matter were resumed at 10.30 o'clock A. M., pursuant to adjournment.

Before: Examiner CHARLES S. MOORE.

Appearances: MESSRS. JOHN WALSH, Chief Counsel of the Federal Trade Commission, A. M. DALY and L. A. SPIESS, on behalf of the Commission, and JOSEPH W. WELCH, Esq., and JOHN G. MILBURN, JR., Esq., on behalf of the Curtis Publishing Company.

EXAMINER MOORE: Are you ready, Mr. Daly?

MR. DALY: Yes, sir; if the other side is.

MR. WELCH: Mr. Daly, at page 2104 of the record it appears that after your request that the cross-examination of Mr. Douglas on those figures be adjourned until he could make some investigation, we conferred and said that we would furnish you with such data as was feasible and proper, and then the dicussion was stricken out, but the record shows just before that you asked Mr. Douglas to produce a list of all the district agents for the purposes of the record. Now, I suppose, in view

of the arrangement that we came to afterwards, that you withdraw that request now?

MR. DALY: Yes, sir; I withdraw that for the present.

MR. MILBURN: I would like to have it appear that we furnished, at the request of the Commission, the original reports of the roadmen covering the towns desired by them.

MR. SPIESS: That you have furnished the reports of the roadmen covering particular witnesses, as we have requested them, and at that particular time, up to now.

MR. MILBURN: That is correct.

---

LOUIS E. CLAY resumed the stand for further

RE-CROSS-EXAMINATION.

By MR. SPIESS:

Q. Mr. Clay, you testified yesterday on re-direct that there were three wholesalers—three magazine wholesalers in Manchester, New Hampshire— and my understanding is now that these reports are not to cover as a wholesaler a man who is wholesaling "Pictorial Review" or the Crowell publications; is that true?

MR. MILBURN: No; may I correct that?

MR. SPIESS: Go ahead.

MR. MILBURN: Your reports are to cover any man in any one of these towns who is wholesaling anything, but the total figures drawn from these reports put in evidence by Mr. Douglas exclude the American News Company and its branches, and exclude wholesalers established by the "Pictorial Review" Company and by the Crowell Publishing Company, although these wholesalers do appear in the original reports themselves.

By Mr. Spiess:

Q. Then I will ask you, Mr. Clay, if it is not true that your reports, as you have testified to yesterday, include wholesalers who are handling "Pictorial Review" and the Crowell Publishing Company magazines.

A. You have the report referred to.

Q. Have you given me that information?

A. If you speak of the written reports that I furnished the home office—Mr. Douglas——

Q. No; I am speaking about the towns yesterday that you testified to and I wanted the facts.

Mr. Milburn: Mr. Spiess, I asked him a double question, and asked him for total figures yesterday, including the "Pictorial Review" people, and then the total figures, excluding. I was trying to be perfectly fair about it, and I think you are.

Mr. Spiess: Well, we will go along and just see where we get.

By Mr. Spiess:

Q. Now, you testified that Mr. Southard is a wholesaler in Manchester, who handles Curtis publications, and you also testified that Mr. Samuel Black had signed a contract to handle Curtis Publishing Company publications, but that Mr. Black handles the dealers' output, and Mr. Southard handles the boy output; is that correct?

A. Yes, sir.

Q. Now, how long has Mr. Southard been the agent for the Curtis Company in Manchester?

A. Since some time last fall. The exact date I cannot give you offhand, sir.

Q. How long has Mr. Black been the agent there for these Curtis publications?

A. Approximately two or three months; less time than Mr. Southard.

Q. Who was the Curtis agent before Mr. Southard took up the publications?

A. The City News Agency.

Q. And you changed that from the City News Company to Mr. Southard; is that true?

A. The City News Company business was transferred to Mr. Black.

Q. Why?

A. The City News Company business—the transfer was made by Mr. Flanders, of the Boston office. I was not in the town at the time, but it was on account of unsatisfactory arrangements between the City News Company and the Curtis, either of service, or because the whole business did not go to one agent—that is, did not go to the City News. The exact details of that I only have in a very general way, as I did not personally handle that transfer myself.

Q. At the time the City News Company was handling the Curtis publications, were they the only wholesale distributors of magazines in Manchester?

A. That is a pretty fine—at the time the City News Company? No, sir; they were not. Mr. Black was another wholesale distributor at that time.

Q. What did he distribute at that time.

A. He distributed the Hearst line of magazines, and I am not positive at that time whether there were one or two of the smaller magazines or not, like "Motion Picture." I cannot give you that information.

Q. How long did the City News Company distribute magazines for the Curtis Company?

A. Well, that would have to be simply an estimate on my part, because from the time they took it until they left it I did not visit Manchester to investigate the agency, but I think either two or three months.

Q. The City News Company had it that long?

A. I think so, yes. I may be in error on that point.

Q. Do you know who had it before the City News Company had it?

A. Yes, sir.

Q. Who?

A. Mr. Friedman. Charles Friedman, I will say, of Manchester.

Q. Charles Friedman?

A. Charles Friedman, yes, sir.

Q. Of where?

A. Of Manchester.

Q. Is he related to the Friedman in Lawrence?

A. He is.

Q. What relation is he?

A. I understand he is a brother.

Q. Has Mr. Friedman in Lawrence any interest in the concern of Friedman of Manchester, do you know?

A. Did he have?

Q. At the time?

A. At the time?

Q. Yes.

A. Why, I think when Charles Friedman first went to Manchester, the Lawrence Friedman was somewhat interested in financially backing him, but I understand that that was later taken over by Mr. Charles Friedman entirely, on his own responsibility.

Q. Did Mr. Friedman have the "Pictorial Review" at the same time that he was handling Curtis publications in Manchester?

A. I think he did.

Q. Do you know whether that was one of the reasons for changing his agency to the City News Company?

A. I know that it had nothing to do with it, not so far as I am aware.

Q. Do you know whether or not Mr. Friedman re-

ceived a letter from the Curtis Company to stop handling the "Pictorial Review"?

A. I could not say as to that, sir.

Q. How long has Mr. Pollister been the Curtis agent in Auburn?

A. For, I think, some three or four years—possibly longer. The exact date of his taking charge of the agency is not in my mind at present.

Q. Now, you stated that Raymond Ritz is a young man who handles "Pictorial Review." Do you know what business Mr. Ritz was in before he took on "Pictorial Review"?

A. I understand that he is a boy. Mr. Ritz I have not met myself.

Q. I asked you, do you know what business he was in before?

A. No, sir; I do not.

Q. Do you know whether he was in any business or not?

A. No, sir.

Q. How old a boy is he?

A. I do not know his age. I judge he is a grade school boy, however.

Q. Do you know whether or not he has any equipment for distributing magazines?

A. Yes, sir.

Q. Did you make any investigation to find out?

A. Into Mr. Ritz's equipment?

Q. Yes.

A. No, sir.

Q. Did you make any investigation to find out what equipment any of these agents had, other than the Curtis Publishing Company agents?

A. Why, generally.

Q. What do you mean by generally?

A. If it came to my notice, without going to too

much trouble, in a general way I had knowledge of what their equipment might be.

Q. If you just came across it, why, you would look into it, but you did not make any special effort to find out what equipment any other wholesaler in these towns has for distributing magazines, outside of the Curtis Company agents; is that true?

A. I was speaking more particularly of the Pictorial agent when I made that statement, that I made no attempt to specifically investigate the equipment of any Pictorial agent.

Q. How about the Crowell Company agent?

A. Or the Crowell Company agent. That is, I did not select those standing out like signal lights for special attention on the equipment standpoint.

Q. Did you make any special effort to find out what equipment any other wholesale distributor had, outside of Curtis agents? Don't you know whether you did that or not?

A. In some few of the large cities I know and have found out, by personal investigation, what equipment they had.

Q. Now, in the small cities, did you make any investigation?

A. In the small cities the matter of equipment with us is of so minor consideration that I did not conceive that it was worth consideration by the Pictorial.

Q. Well, now, what do you mean when you say it is of minor consideration to the Curtis Company whether or not these agents have equipment?

A. In the small cities?

Q. Yes.

A. Exactly what I say.

Q. What do you mean by that?

A. Simply that in Curtis distribution, sir, practically in all towns, small as well as large, I figure that

the backbone of our sales organization is the boy end of the business, and in the small towns the distribution to the dealers usually goes in the small towns—there are a fewer number of dealers, and the investigation can very easily be made, as I have made it myself, in doing promotive work, by taking the copies under my arm and going a few doors down the street, or by a boy with a pushcart or bicycle, or other primitive methods.

Q. Did you find out whether or not in any of these large towns these other wholesalers had efficient equipment or not?

A. As a matter of common knowledge in the large towns, yes.

Q. You made no investigation?

A. Yes.

Q. Did you report it to the office?

A. I do not think it was embodied in any report forms.

Q. Did you report it to the office?

A. In a few of the towns, yes.

MR. SPIESS: Have you got those reports, Mr. Milburn?

MR. MILBURN: I have not got an equipment report.

MR. DOUGLAS: We did not ask for anything on equipment. He may have written an occasional letter. He is confused, you see. He may have written an occasional letter to us, but not in connection with this.

By MR. MILBURN:

Q. (Handing witness paper.) Is that a copy of your report on a certain town?

A. These two bottom sheets, yes, sir.

Q. Were the other reports similar?

A. No, sir; absolutely not.

Q. I mean were the other reports on the other towns similar to these?

A. On the other towns, yes, sir.

Q. Now, can you find out anything about equipment on these?

A. Not on that, no, sir; not in the way of a formal report.

By Mr. Spiess:

Q. But you did in several instances report to the office about the equipment of other wholesale distributors than Curtis distributors?

A. In a letter, not taking a regular report form, yes, sir.

Q. Now, can you tell me what "C. Q. No. 9" on this report means?

A. That is something that is entirely unfamiliar to me. These two reports here are the only ones I have seen.

Mr. Daly: I ask you what those numbers are on those reports.

Mr. Milburn: Those are other questionnaires, sent out by mail.

Q. Q. No. 9 would be——

Mr. Milburn: I think that was a questionnaire.

Mr. Douglas: We had previously sent out a questionnaire. That simply refers to a previous questionnaire.

Mr. Daly: What does C. Q. mean?

Mr. Douglas: Census question. It is the number of the previous question asked.

Mr. Daly: And whether or not the man answered yes here, there had been a previous questionnaire sent out in that case; is that what you mean?

Mr. Douglas: Yes.

MR. DALY: And his answer?

MR. DOUGLAS: Yes.

MR. SPIESS: You mean you sent them out, Mr. Douglas, to whom?

MR. DOUGLAS: Last summer, some of the road men interviewed some of these district agents, asking them certain questions. The answer there under C. Q. No. 5 is the district agent's answer to the road man to the question as numbered on the previous questionnaire that the road men were engaged in prosecuting for us. There were a few changes in Canada, for instance, and in some remote sections of the country, where we sent that questionnaire out by mail, instead of having the men see them. That is independent of the study of the road men.

MR. SPIESS: Was this one questionnaire with a various number of questions?

MR. DOUGLAS: Yes.

MR. SPIESS: On this report you show No. 9 yes and No. 6 yes. That would indicate where the agent had answered those two questions?

MR. DOUGLAS: Yes.

MR. SPIESS: And No. 8 no, and No. 5 no—that would indicate he had not answered it, would it not, or that he had answered no to it?

MR. DOUGLAS: He had answered no.

MR. SPIESS: Can you get a copy of that questionnaire?

MR. DOUGLAS: Yes, sir; understand now, Mr. Clay never saw that sheet until it was produced here.

MR. SPIESS: I understand. I just wanted to get this information. Now, I notice on here, in red ink, some figures, and I don't know just what that means—10, 12, 13.

MR. DOUGLAS: That is a clerical detail in our office in Philadelphia. I put in certain figures here, summarized, taken from these sheets. Now, we assemble that data three ways, because when we began assembling it we did not know which way we would use it. The classification numbers in black are on the basis of all of the entries in the sheet. The classifications in red are on the basis of all on the sheet, eliminating the news company branches. The classification in green is on the basis of all the entries on the sheet, excluding not only the news company branches, but all wholesalers also of "Pictorial" only, or Crowell only, or "Pictorial" and Crowell together and no other; but the road man never saw those sheets.

MR. SPIESS: Mr. Pollister is the only wholesale distributor of magazines in Auburn, is he not?

THE WITNESS: Other than the "Pictorial"—The young man who handles the "Pictorial."

By MR. SPIESS:

Q. Outside of Mr. Raymond Ritz?

A. Yes, sir.

Q. But when Pollister was handling the "Pictorial," then, he was the only wholesale distributor in Auburn, is not that true?

A. Yes, sir.

Q. Do you know whether or not the population of Auburn is 8500—approximately that?

A. I cannot recall the population of Auburn. I have it on my notebook, if you want me to look it up.

Q. I do not know whether this one is stricken out or not. Do you know whether it is 8,000 or 18,000?

A. I think it is nearer 18,000.

MR. DOUGLAS: The 1910 Census gives it as 15,000.

MR. SPIESS: I think it is safe to assume it is 18,000. The report states 18,500.

By MR. SPIESS:

Q. Now, in Lowell, Massachusetts, the home office report shows that there are two wholesalers of magazines, Mr. Katze and the Lowell News Company. Do you know whether or not the Lowell News Company is a branch of the American News Company?

A. I have no positive—no absolute knowledge, but I assume that it is, and have been given to understand that it is a branch of the New England News Company, but I do not know exactly the relationship, whether it is a branch or a sub-branch of the New England News Company, which is a branch of the American News Company.

Q. Who gave you this information?

A. I do not know where I got it first, but it has been a matter of knowledge with me for several years, I hear it from the dealers in Lowell.

Q. Have you any doubt that the Lowell News Company is a branch of the American News Company?

A. Not in my own mind; no, sir.

Q. That is what I want to know.

A. You understand, of course, I could not tell the inside business relationships of these various organizations.

Q. Now, Mr. Katze was the agent for the Curtis Publishing Company, until very recently, was he not?

A. Yes, sir.

Q. Outside of the Lowell News Company, he was the only wholesale distributor of magazines up to the time that his agency or his contract with the Curtis Publishing Company was terminated?

A. Yes, sir.

Q. So that, outside of the branch of the American News Company, or the Lowell News Company, Mr. Katze was the only efficient distributor of magazines,

who was operating in the city of Lowell, up to the time his contract with the Curtis Publishing Company was terminated—is not that so?

A. Yes, sir.

Q. And for months he handled the "Pictorial Review," did he not?

A. Yes, sir.

Q. And that was one of the reasons why his agency or contract with the Curtis Publishing Company was terminated, was it not?

A. Exactly.

Q. Is Mr. Katze still handling the "Pictorial Review"?

A. I think so; in fact, I am very sure of it. He put out the last issue.

Q. He is not handling the Curtis Publishing Company magazines, is he?

A. Not direct.

Q. I think you testified that the Curtis Publishing Company has an agent there, handling their magazines exclusively, did you not?

A. Yes, sir.

Q. And they guarantee him an income from the distribution of these magazines, of $25.00 a week—is not that true?

A. Yes, sir.

Q. I think you gave me the distribution that Mr. Clough handled, did you not?

A. Yes, sir.

Q. Now, in Lawrence, Massachusetts, you testified that Mr. Sam Black handles the Curtis and Hearst magazines and the "Boston American"——

MR. WELCH: What page are you reading from?

MR. SPIESS: Page 2418.

By MR. SPIESS:

Q. —that Mr. Samuel Katze handles the Lawrence "Sun" and "American" and a local paper; Sam Fried-

man handles the "Munsey Magazine," "Collier's," "Digest," "Pictorial," Warner line, Boston "Globe" and "Herald," the "Traveller" and the Lawrence "Eagle." Now, how long has Mr. Black been the agent of the Curtis Company in Lawrence?

A. That was another transfer that was handled by Mr. Flanders, of the Boston office. My impression is the latter part of last fall or the early part of last winter. I cannot give the exact date.

Q. Who was handling the Curtis Company magazines prior to the time Mr. Black took the agency?

A. The immediate predecessor was the firm of Katze & Friedman.

Q. Are they the same parties that you speak of here as handling other magazines now?

A. They were in partnership at one time.

Q. Are they in partnership any longer?

A. I understand not.

Q. Do you know when they stopped handling the Curtis Publishing Company magazines?

A. I could not give you the exact date; no, sir.

Q. Approximately, then?

A. Because that would be coincident with the time Mr. Black assumed control.

Q. And that was the latter part of last year?

A. I believe the latter part of last year.

Q. Do you know when they terminated their partnership—Katze & Friedman?

A. Why, I was not in Lawrence—I was not in the immediate territory or near Lawrence—and my impression of that incident was about the time or just prior to the time that the transfer was made. I may be away off on that.

Q. Do you know, or don't you know, that prior to the time the Curtis agency was taken from Katze & Friedman, that they were handling "Pictorial Review"?

A. I would not want to say who was handling "Pictorial Review" at that time, sir. I cannot remember.

Q. Do you know, or do you not know, that, after they, to all intents, separated their partnership, that Mr. Friedman handled the "Pictorial Review" and Mr. Katze continued to handle the Curtis Publishing Company magazines?

A. Do I know?

Q. Yes.

A. No, sir; I was not in the city, and as to that arrangement I cannot testify.

Q. How often do you get to Lawrence?

A. Why, I have no stated period. I endeavor to visit Lawrence, as well as other cities in that territory, from three to four times a year—that is, when I am doing regular promotive work. That, of course, does not hold true during the past few months, when I have had special work to do.

Q. How long has Mr. Kelly & Son been wholesaling magazines in Lawrence?

A. I do not know, sir. I have only been familiar with conditions there for a little less than two years since I have been going into that territory, but as far as I know, some considerable period previous to that.

Q. What?

A. Previous to the time I assumed control of the territory.

Q. Do you know how long Mr. Kelly has been handling the Crowell line?

A. I do not know.

Q. Has that been more than two years?

MR. MILBURN: He says he does not know.

MR. SPIESS: I am trying to refresh his memory.

MR. MILBURN: You cannot refresh his memory if he does not know.

MR. SPIESS: He stated he did not know how long, and I wanted to know approximately.

By MR. SPIESS:

Q. You made this investigation?

A. Yes, sir.

Q. Do you know when Mr. Katze and Mr. Friedman were in partnership handling magazines, whether or not they were the only wholesalers of magazines in that territory?

A. I have no positive knowledge as to exactly what Kelly & Son's concern were wholesaling, if any, at that time. I understood they had some of the smaller magazines at that time. What they were, I do not know, because I did not make an inquiry as to it.

Q. Outside of Kelly, Katze and Friedman were the only wholesalers of magazines in Lawrence, were they not?

A. At the time they had our agency?

Q. At the time they had your agency.

A. I think they were.

Q. And the time their agency was terminated by the Curtis Company they were handling "Pictorial Review"—is not that true?

A. I made the statement to you a few moments ago that I was not sure, but for once I thank you for refreshing my memory. I am inclined to the opinion that they were—in trying to recall the facts to my mind——

Q. And that was one of the reasons why the agency was taken from Katze & Friedman?

A. I do not think so. As I say, that matter was handled entirely at the Boston office, but I do not think that that was one of the causes.

Q. Now, in Haverhill, Massachusetts, you testified that there was only one wholesale distributor of magazines—is not that so?

A. You mean in reference to the reports that I made to our office?

Q. Yes.

A. I believe that the testimony will show that there were two wholesalers, does it not—you have them there before you?

Q. Well, I see two wholesalers here; one sells the "Boston Post" and the "Boston Herald" and "Boston Globe"——

MR. MILBURN: That is not the point at all, Mr. Spiess. There are newspapers and there are magazines.

MR. SPIESS: I thought the understanding was you were not counting Crowell.

MR. MILBURN: Mr. Douglas testified he had the whole thing before him.

MR. SPIESS: Very well, it is my error.

By MR. SPIESS:

Q. He has testified there were two wholesale distributors in Haverhill, Massachusetts, Moses Schlafman and the Fox Brothers. Can you tell me what magazines the Fox Brothers handled?

A. The magazines that the Fox Brothers handle are indicated in my signed report.

Q. Then, they handle the Crowell and "Pictorial"?

A. Yes, sir.

Q. How long have they been handling the Crowell line and the "Pictorial Review"—do you know?

A. No, sir; I do not know the exact time that they took those magazines on.

Q. Do you know, in a general way?

A. No, sir; you will note on that report—each report is dated. My investigation was conducted with an idea of indicating what magazines certain people were handling on those dates, not when they commenced acting as distributors for any other magazines——

Q. Now outside of the "Pictorial Review" and the Crowell line, Schlafman handles all magazines, to your knowledge—is not that true—practically all magazines?

A. The report shows, but practically yes.

Q. He is the agent for the Curtis Publishing Company?

A. Yes, sir.

Q. How long has Schlafman been the agent for the Curtis Publishing Company?

A. He has been the agent for quite a considerable number of years.

Q. Did he ever handle "Pictorial Review"?

A. I do not believe he ever handled it.

Q. Then, outside of Fox Brothers, that handle Crowell and the "Pictorial Review" magazines, Schlafman is the only wholesale distributor of magazines in Haverhill, to your knowledge?

A. To my knowledge; yes, sir.

Q. This report shows that the population of Haverhill is 47,071.

MR. MILBURN: That was not his report, was it?

MR. SPIESS: The report of the office.

THE WITNESS: The only figures I have were taken from the last Government census, which gave it at slightly over 44,000.

By MR. SPIESS:

Q. The office report of the Curtis Publishing Company shows that the population of Lowell is 111,000. Do you know whether that is correct?

A. My figures show 106,000. I should judge the increase was reasonable.

Q. Is the J. W. Petterson Company in Portland, Maine, the wholesale distributors for the Curtis publications?

A. They are; yes, sir.

Q. Do you know how long they have been wholesale distributors for the Curtis Publishing Company?

A. If I recall the date, something like 1910 or 1909, they first became associated with the Curtis Company.

Q. Are there any other wholesale distributors of magazines in Portland?

A. Not including or including the news company? That is, do you want the written report I made to the home office, or eliminating——

Q. Not including Curtis publications—outside of Petterson, do you know of any other wholesale distributor of magazines? You report Chism Brothers as wholesaling only magazines?

A. Yes, sir.

Q. Is that true?

A. To the news agents on the trains only.

Q. Do they distribute to retail dealers in Portland?

A. No, sir; but, if I might add—the inclusion of that name was made through a misunderstanding of what they wanted at the office.

Q. The Eastern News Company wholesales all magazines, and are they a branch of the American News Company?

A. As I understand it, they are; yes, sir.

Q. Is William McKone a wholesaler of the Curtis publications?

A. Yes, sir; for a certain portion of the city.

Q. Why is it sent in care of F. L. Winship?

A. Because he is an employe of his.

Q. What does McKone do?

A. He is an assistant in the drug store.

Q. To whom do they distribute the Curtis publications?

A. They distribute to boys who call for their copies.

Q. Just to boys?

A. Yes, sir.

Q. They do not supply the retailers?

A. No, sir.

Q. Has McKone any connection with Petersen & Company?

A. Not to my knowledge.

Q. There is an indication on your report—"a branch station of our agent above."

A. Well, a connection in the way—possibly you may define that word a little differently than I intended it to be defined. He was distributing for the Petersen Company, but he was not intimately connected with them, except that he purchased the copies and resold them to the boys.

Q. From whom does he get his copies?

A. From Petersen Company.

Q. As a matter of fact, he just simply——

A. He is what we term a branch. I will simply add this further statement regarding the Portland report, that a case like McKone I do not think was within the intent of the home office when they requested the wholesalers' reports. I assumed that they wanted every wholesaler whether he covered the entire city or only a portion of it, and that is why Mr. McKone's name appears there.

Q. Do you know whether or not J. W. Petersen & Company handle the "Pictorial Review"?

A. I do not think they do, sir, at the present time.

Q. Do you know whether they ever handled it?

A. I have reason to believe that they did handle it at one time.

Q. Who does handle the "Pictorial Review" in Portland?

A. The Eastern News Company.

Q. Is the Eastern News Company a branch of the American News Company?

A. As I understand it.

Q. When was the last time you visited Petersen & Company?

A. Why, I think it was something like a month ago that I ran in there for a few moments.

Q. And to the best of your knowledge they do not wholesale "Pictorial Review"?

A. To the best of my knowledge they do not.

Q. Did you take up with them whether they did or not?

A. At this last visit?

Q. Yes.

A. No, sir.

Q. Will you explain why you did not?

A. I had no reason to, sir, at that time.

Q. Didn't you make any inquiries as to whether they were handling "Pictorial Review" on this last inspection?

A. I do not infer from your question if I visited the Petersen Company, I was out to make an investigation—I may add, so as not to confuse you, that Portland is the city in which I live, and it is a habit of mine to run in to the dealers occasionally. This last visit was not really for the purpose of holding any investigation, as I had an entirely different matter on, from a promotive standpoint.

Q. Do you know who owns the Petersen Company?

A. Yes, sir.

Q. Who?

A. The Eastern News Company.

Q. The Eastern News Company is a branch of the American News Company?

A. I believe that has been stated before; yes, sir.

Q. And the Curtis Company are distributing their magazines wholesale through the Petersen Company?

A. Yes, sir.

Q. And the "Pictorial Review" is being distributed through the Eastern News Company?

A. As I understand it now; yes, sir.

Q. And the Eastern News Company owns the Petersen Company?

A. Yes, sir.

Q. Then, you wish to still say that you do not know that the Petersen Company is distributing the "Pictorial Review"?

A. Not under J. W. Petersen Company, because they use——

Q. Are they distributing it as the Eastern News Company?

A. The "Pictorial Review"?

Q. Yes.

A. I believe so.

Q. Do you know?

A. I will tell you just what my knowledge consists of. It consists of seeking from certain dealers the "Pictorial Review" bill on the Eastern News Company heading or the Eastern News Company bill. As the Petersen Company maintains its own separate organization, using a separate bill head for what publications they put out, although financed by the Eastern News Company, this possibly will explain my statement regarding the distribution by the Eastern and by the Petersen Company of different magazines.

Q. But they are all the same concern?

A. They are financed by the same concern, as I understand it.

Q. And there is only one real wholesale distributor of magazines in Portland, Maine?

A. If you wish to consider it so.

MR. MILBURN: What is the question?

(The stenographer repeated the question.)

MR. MILBURN: I object to the question on the ground it appears there is more than one. The witness testifies they are two separate concerns.

By Mr. Spiess:

Q. Did you make any report to the Curtis Company of this situation before you went out on this last investigation and made this last report?

A. With reference to the ownership of the Petersen Company?

Q. With reference to the Petersen Company handling—any wholesaler in Portland?

A. Why, as I recall it—oh, I should say in June or July, or possibly a little bit later last year—I made a report that the Petersen Company were wholesaling "Pictorial"; that is, they were going out in their machines and being billed on their bill heads to a number of dealers. I did not call on each and every dealer in Portland.

Q. You do not know, then, whether or not the Petersen Company had ceased distributing "Pictorial Review," or do you know that?

A. On the statement of the dealers interviewed, the "Pictorials" are coming in the News Company autos and are being billed on the News Company heading and are being distributed by the News Company drivers and News Company organization at present. As I say, I have not visited every last dealer in Portland, and this constitutes my knowledge of the situation.

Q. I will now call your attention to the situation in Rutland, Vt. You report that it is a town of approximately 13,546 population?

A. Approximately that.

Q. In which you have reported to the Curtis Company under date of February 25, 1918, that August Olson is the agent of the Curtis Company, J. J. Carbine is the wholesale distributor of the "Pictorial Review" and Howley Brothers the wholesale distributors of "Collier's" and "Pearson's." I now ask you if you

know how long Howley Brothers have been distributing "Collier's" and "Pearson's"?

A. No, sir.

Q. Can you approximate how long?

A. No, sir; I cannot.

Q. How long has Carbine been handling "Pictorial Review"?

A. I do not know the exact date, but I understand that he was the first appointee in Rutland when the "Pictorial" first commenced independent distribution.

Q. Then, prior to the appointment of Mr. Carbine as the wholesale distributor of "Pictorial Review," Olson and Howley Brothers were the only wholesale distributors of magazines in Rutland?

A. Yes, sir.

Q. What other business is Mr. Howley in, outside of handling various newspapers? Is he in any other kind of business?

A. Mr. Howley has retail stationery and news store in the city.

Q. How long have you had your agency with Mr. Olson?

A. For a considerable time. The exact date on that I do not know. When he did take hold I do not know—in 1909.

Q. Do you know whether Howley Brothers were in business at that time?

A. No, sir. I could not say. I was not covering that territory then.

Q. Now, in your work and experience as one of the road men of the Curtis Company, you go from town to town, selecting various agents for the Curtis Company, do you not?

A. Yes, sir; as occasion requires.

Q. And you have selected a number of agents for

the Curtis Company?

A. Yes, sir.

Q. You stated that you had in forty-four cases changed the agency from the old contract to the new contract?

A. Yes, sir.

Q. Can you state whether or not the parties to these changes were the same in all cases?

A. In each of the forty-four they were not in each case the same agent.

Q. Will you give me those cases in which they were not the same?

A. I will take these by states, to make sure that I make no omissions. A change was made in Lewiston, Maine. A change of agents was made in Waterville, Maine; Nashua, New Hampshire; Portsmouth, New Hampshire; Burlington, Vermont; Lowell, Massachusetts. I feel sure that I have given you all. I don't think I have made any omissions.

Q. That would be six.

A. Yes.

Q. Now, prior to the time that you changed these six agencies, you had changed other agencies, had you not?

A. Yes, sir.

Q. And whenever you make a change in your agency you endeavor to get the most efficient man in the town for the Curtis publications, do you not?

A. Yes, sir.

Q. And those are your instructions from the head office, to always see that the Curtis Company has the most efficient agent they can possibly obtain, is that true?

A. Yes, sir.

Q. And you do get the most efficient agents?

A. That I can secure.

Q. That you can secure?

A. Yes, sir.

Q. And you have been in the business some time and have had a lot of experience in securing the agents, have you?

A. Quite a little.

Q. And you have been quite successful, have you not?

A. I don't like to compliment myself, so please change your form of question and not make it so embarrassing for me.

Q. I am putting you in a position where you can be complimenting yourself.

A. Not publicly.

By Mr. Daly:

Q. Now, your agent in Bangor is William Emble, is it not?

A. Yes, sir.

Q. Do you know whether or not the "Pictorial Review" requested him to take up their publications?

A. I could not say from positive knowledge.

Q. Well, if you know anything about that, were you so informed from your office?

A. No, sir.

Q. Did Emble tell you so?

A. Mr. Emble gave me to understand that he had received a communication from the "Pictorial" people.

Q. But that he had turned them down?

A. Yes, sir.

Q. He is your agent under contract, is he not?

A. Yes, sir.

Q. Did he state that it was because of the contract that he turned them down or not?

A. He did not state that it was because of the restricted clause in the Curtis contract that he turned the "Pictorial" down. He did not make that statement to me.

Q. Take Chisholm Brothers, up there. You said here they handled the Hearst line and the Munsey line. Are they regular wholesalers or retailers of those magazines?

A. The same explanation for Chisholm Brothers in Bangor would hold good for that I said for Chisholm Brothers in Portland.

Q. I don't remember what that was.

A. That Chisholm Brothers in Bangor is a firm of railroad news agents only; that is, supplying train boys on the trains, and not distributing to local Bangor firms.

Q. Now, O. C. Bean, your report shows, handles "Pictorial Reviews," Crowell publications and Warner publications. Do you know when he took on those publications?

A. No, sir.

Q. Do you know whether he handles any other magazines besides those that I have mentioned?

A. Not unless it so indicates on the report.

Q. Your report shows that. Now, I want to ask you how he handles these magazines?

A. In making delivery?

Q. In a wholesale way.

A. He is both a wholesaler and retailer.

Q. What does he do? What has he there?

A. Well, he is a wholesale distributor of newspapers and certain magazines, and he also has a retail stationery store.

Q. Do you know how he handles "Pictorial Review" and Crowell line and the Warner line? That is what I am asking you about.

A. That is, how he gets them out to the trade?

Q. Yes; how he gets them out to the trade.

A. I understand from the dealers that he maintains a team delivery.

Q. Is he a merchant there or not?

A. He is a merchant.

Q. What does he sell?

A. Stationery, books, general news line.

Q. Now, your agent is Mr. Emble, is it not?

A. Yes, sir.

Q. Then he handles your publications, story books, Hearst line, and "Pearson's," is that correct?

A. Yes, sir.

Q. Besides that he handles the "Boston American"; is that the situation?

A. Yes, sir.

Q. Now, Emble is a large handler of magazines, there, is he not, for that city?

A. For that city, he has considerable business, yes, sir.

Q. He has the largest business there, has he not?

A. Considering the magazines solely, yes, sir.

Q. And he covers all of the retailers, does he not?

A. Yes, sir.

Q. And has equipment for proper delivery?

A. He has a team that he uses; yes, sir.

Q. And he delivers them out to the retailers?

A. Yes, sir.

Q. In that city?

A. Yes, sir.

MR. DALY: That is all.

(Witness excused.)

---

J. L. LYNNE was called as a witness on behalf of the respondent, and, being duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Lynne, are you employed by the Curtis Publishing Company?

A. I am.

Q. How long have you been employed by them?

A. For near four years.

Q. What is your position now?

A. I am superintendent of agencies in central and western Massachusetts.

Q. To how many towns do you go?

A. Sixty-nine.

Q. Give a few names of the larger?

A. Springfield, Worcester, Pittsfield, Taunton, New Bedford, Fall River, Attleboro, Malden, Melrose, Wakefield, Woburn, Reading, Newton, Brookline, Cambridge, Somerville, South Framingham, Waltham.

Q. That will do on that. How long have you been in that district?

A. A little over a year and a half.

Q. Are you familiar with the district you cover? Have you been to all of these towns?

A. I have.

Q. You know the district agents, do you?

A. I do.

Q. And it is part of your duty to generally supervise the Curtis district agents there?

A. It is.

Q. Have you recently, in the last few months, been specifically engaged in making an investigation of certain questions asked by the Curtis Publishing Company, in your district?

A. I have.

Q. And have made specific reports to the Curtis Company as to the results of your investigations?

A. I did.

Q. Did you have some help in your district, down there?

MR. DALY: In the investigation?

MR. MILBURN: Yes, sir; I may be wrong.

By MR. MILBURN:

Q. Did Mr. Baker cover any of your towns?

A. Mr. Baker?

Q. Then I am wrong. You covered all of your towns yourself?

A. I did; yes, sir.

Q. What did you do? From what sources did you derive your information which you reported to the Curtis people?

A. Well, I interviewed the district agents, visited the dealers, visited the circulation managers of newspapers, and in general followed out that line of endeavor.

Q. Now, in these towns, in how many of them did you find there to be only one wholesaler, and in giving that figure I want you to exclude the American News Company branch, if any, and exclude anybody who was the sole wholesaler for "Pictorial" or Crowell, or both.

A. Excluding the wagon or auto delivery of the News Company and "Pictorial' or Crowell agents or both, I have only sixteen towns with only one magazine wholesaler.

Q. Can you tell us in how many of these sixteen towns there are branches of the News Company or agents employed by Crowell, or "Pictorial," or both?

A. Well, in those sixteen towns there are no Crowell or Pictorial agents. There is no News Company delivery.

Q. We have a district agent in each one of those towns, have we?

A. In all of those towns.

MR. DALY: No Crowell or "Pictorial" agents?

THE WITNESS: No Crowell or "Pictorial" agents.

By MR. MILBURN:

Q. There isn't any other magazine wholesaler there?

A. Other than ours.

Q. What is the general character of those towns?

A. Those sixteen?

Q. Yes.

A. Very small.

Q. Averaging about what in population?

A. Between four and five thousand.

Q. In each one of these towns, about how many retailers would there be, do you know?

A. The average?

Q. Yes.

A. I should say about two.

Q. Of these sixteen district agents, do you know are any of them boys?

A. Yes; they are mostly all boys in those sixteen towns.

Q. And is it a general rule that in your smaller towns the Curtis district agent is a boy?

A. Yes, sir.

Q. In your district?

A. Yes.

Q. In these sixteen towns, what do these agents handle, generally speaking?

A. These sixteen agents?

Q. Yes.

A. Nothing but Curtis publications.

Q. Only Curtis?

A. Only Curtis.

Q. In the general course of your duties, have you co-operated with the district agents in obtaining circulation through boys?

A. I have.

Q. To what extent; what have you done about that?

A. I have called meetings of boys. I have visited the schools; in many instances have visited the parents, and in general have tried to increase the circulation that way, and also secure new boys.

Q. Have you, as you worked through your district, been aware of any efforts on the part of "Pictorial" or "Every Week" publishers to secure the services of the district agents under you?

A. I have.

Q. Have you any specific instances?

A. Yes.

Q. Will you give them?

A. At Taunton, Mass.

Q. Who is district agent there?

A. George A. Wood, known as the Wood News Agency.

Q. Well, why do you refer to that? What happened there?

A. In that case a representative of the "Pictorial Review" visited Mr. Wood and asked him to take the "Pictorial Review" agency. He said that he did not think he could.

By Mr. Daly:

Q. Mr. Wood told you this, did he?

A. Yes. He told me this personally. He said he didn't think he could, and the "Pictorial Review" representative asked him why. "Well," he said, "I have been handling Curtis publications, and I would rather handle them. Furthermore, I cannot take the 'Pictorial Review' agency without first obtaining the consent of the Curtis Company." The Pictorial Review Company representative then stated, "Well, why not take it through your store manager, Mr. Smith"?

Q. Through whom?

A. Mr. Smith. They talked it over and finally Mr. Smith did take it.

By Mr. Milburn:

Q. Well, what other instance, if any?

A. In Adams, Mass., Mr. Snow, our district agent, was approached by a representative of the Crowell Publishing Company. He stated to Mr. Snow——

Q. State briefly what happened.

A. He stated that Curtis district agents generally were all taking the Crowell agency, and that he had better take it. Mr. Snow stated that he would first find out——

MR. DALY: What was it he stated the district agents generally—I missed that?

A. He said that he would first have to find out from the Curtis Company whether he could take it or not.

Q. No; you said he stated district agents generally——

A. Oh, the Crowell man said the Curtis district agents generally were taking on the Crowell agencies. Mr. Snow said he doubted it and he would first find out from the company.

By MR. MILBURN:

Q. Did he take it on?

A. He did not.

Q. Any other instance?

A. Another case in Amherst, Mass. Mr. Hastings is our agent. He was approached by a representative of the Crowell Company, who stated in substance the same as I have just related in reference to Adams.

Q. He stated that the Curtis agents were taking on the Crowell, is that right?

A. That is right.

Q. Did he take it on?

A. He did not. Another case is Greenfield, Mass.

Q. Go on.

A. Practically the same thing there as what happened at Adams and Amherst.

Q. With the Crowell?

A. With the Crowell publications, yes sir. Another case at Leominster, Mass. The same statement was made there as was made at Adams and the other towns I have just mentioned.

Q. Who is our agent at Leominster?

A. Sidney R. Bell, known as Bell News Agency.

By Mr. Daly:

Q. By Crowell?

A. Yes, sir; by Crowell's representative.

By Mr. Milburn:

Q. Have you had any such instances with your district agents who handle only Curtis magazines?

A. Yes, sir; I had one case. At the present time —the agent at that time is not our agent at the present time—that is Middleboro, Mass. The Crowell representative visited our agent there and asked her if she was the Curtis district agent. She said, "Yes." "Wouldn't you like to take the Crowell agency"? "No; I have got all I can handle just now." He said, "Wouldn't you rather give up the Curtis agency and take the Crowell agency"? She said, "No." He finally did place it with another man in that town, named Sullivan, who I believe at the present time is not handling the "Every Week." He handled it for a few weeks and then gave it up.

Q. Have you any other?

A. That is the only instance I can think of.

Q. An instance with reference to "Pictorial" or "Call"?

A. I believe there are some other towns, but which I have not got a record of. Well, there is a case in Worcester, Massachusetts.

Q. Who is the agent there?

A. David W. Boland.

Q. Well, what happened there?

By Mr. Daly:

Q. Case of what?

A. What was the question?

Q. You say there was a case.

A. Well, what is the question?

Q. I don't know.

By Mr. Milburn:

Q. I asked you if you had encountered any other instance, and you said there was a case at Worcester. Now, what do you mean by that?

A. In Worcester, Massachusetts, I found the agent—the Curtis agent, Mr. Boland, had been approached by the "Pictorial" people quite a while ago, I understand, and he had taken on "Pictorial." I talked with Mr. Boland about it, and he said that he had given up "Pictorial." Later on, in visits to the town, I found that "Pictorial" is being put out by two of Mr. Boland's employes, named Burman, known as Burman Brothers. I asked Mr. Boland if he had anything to do with it personally, and he said no. I said I thought the connection was a little too close. We talked the matter over and he decided he was going to give it up, which I think he has.

Q. Did he give it up?

A. Yes, sir.

Q. Of your sixty-eight—does your district cover sixty-eight agents?

A. Sixty-eight in all, yes, sir.

Q. There is an agent in each town?

A. There is an agent in each town—sixty-nine in all now.

Q. You reported on sixty-eight?

A. Yes; on sixty-eight I reported.

Q. The sixty-eight on which you reported—how many handle only Curtis magazines?

A. Thirty-nine.

Q. You understood me to mean wholesale?

A. Wholesale, yes, thirty-nine.

Q. Do you know how many started into the magazine wholesale business with the Curtis publications, of the whole sixty-eight?

A. All but three.

Q. Thereafter some of them took on the wholesaling of other magazines, is that correct?

A. They did.

Q. In your working with the district agents and the boys, do you co-operate with the Y. M. C. A.?

A. I do, yes, sir.

Q. What work do you do with them?

A. I visit the Y. M. C. A. and talk with the boys who are secretaries. Very often they would submit to me names of boys who they knew and felt would be interested in our work. I have recently had a fairly large meeting at Fitchburg, Massachusetts, at which one of our special men called a meeting of the boys, and it was a very large and very good meeting. The Y. M. C. A. secretary, in addition.

Q. I don't want to get that. But you have worked with the Y. M. C. A.?

A Yes, sir.

Q. Of your agents, how many are boys?

A. Twenty-four.

Q. Are they mostly old Curtis boys or not?

A. I should say about twelve of them were formerly Curtis boys.

Q. And of the remainder, what type of individuals are most of them?

A. Most of them are boys that are going to school.

Q. No; I mean the other men?

A. Adults?

Q. Yes.

A. Retail store, where they handle stationery and office supplies, four druggists, general retailers.

Q. Four druggists?

A. Four druggists.

MR. MILBURN: I think that is all.

By Mr. Daly:

Q. You are the supervisor of the agents in your territory?

A. Yes.

Q. And you have been so for four years?

A. About four years—very near four years.

Q. And during that time you have covered all of these towns, I suppose, a number of times?

A. In this present territory, I have only been there about a year and a half.

Q. In this particular territory only about a year and a half?

A. Yes, sir.

Q. In all the territory you have been operating in, for a number of years, your business would be to see the agents and attend to that part of it?

A. Yes, sir.

Q. And you use great care in selecting those agents, as a rule?

A. Yes, sir, I do.

Q. And try to pick out a high type of man?

A. Yes, sir.

Q. Whenever you can get one?

A. Yes, sir.

Q. And in most instances you get that kind, don't you?

A. I do.

Q. And as a rule, you do not pick out a man who is not capable and efficient in this line of work?

A. I try to avoid that.

Q. If you do, you only keep him until you can get another one—is that true?

A. That is right.

Q. You have three magazines to offer when you go to an agent, do you not?

A. Yes, sir.

Q. And in that case, do you have much trouble in persuading people to take on your publications?

A. No.

Q. In a great many cases, however, you have to offer inducements besides commissions to get them to take on such publications?

A. Do I have to offer——

Q. Yes; can you get them on the commission basis entirely?

A. Why, on the commission and the bonuses that they receive for increasing business and securing boys.

Q. And in no case you pay additional salaries for handling these publications—do I understand that correctly?

A. Not to my knowledge.

Q. You do not know about that?

A. Not to my knowledge.

Q. You mean you have not done that?

A. Have I tried to induce an agent, by offering him other than commissions?

Q. In your appointment of the agents.

A. No, sir.

Q. You have not, in this territory?

A. I have not offered any money; no, sir.

Q. Have you offered them any money?

A. No, sir.

Q. Then you do hold out inducements that there will be bonuses paid in the event the circulation is increased?

A. In talking with a prospect for an agency, I explain the commissions and explain his bonuses that he would secure through securing new boys and increasing the business, but other than that, there is no inducement.

Q. In these small towns, the commissions, as a rule, would be small, would they not?

A. Yes, sir.

Q. And the remuneration they would get would be by pushing the sales—is that correct?

A. Yes, sir.

Q. Through the boys and any other means that they have?

A. Yes, sir.

Q. Then the basis of this work that you have described here, dealing with boys and appointing these agents—the basic thought is to increase largely the circulation of your paper, is it not?

A. That is what we are in the business for, to increase circulation.

Q. That is what it is for?

A. That is what I get agents for.

Q. Then, you deal with the Y. M. C. A., I think you testified, in securing the co-operation of the Y. M. C. A. secretaries—you do that, do you not?

A. We do.

Q. I want to know this, whether it makes any difference or not—what inducements do you hold out to the Y. M. C. A. secretaries, in order to get them to do this work?

A. Inducements?

Q. Yes.

A. The welfare of the boy.

Q. What is that?

A. The welfare of the boy.

Q. The welfare of the boy?

A. Yes, sir.

Q. What else?

A. That is the only inducement we offer.

Q. You spoke of the subscriptions that they got--I do not mean subscriptions, but in the event they are master salesmen, that the Curtis Company would pay their way with the Y. M. C. A. Do you not hold that out?

A. I believe that most of the Y. M. C. A. men I talk with know about that.

Q. And they have that in mind?

A. Yes, sir; I think they have that in mind.

Q. And, of course, any work they do, the result of which they become master salesmen—that is a benefit to the Y. M. C. A., is it not?

A. If you want to classify it that way.

Q. It is, is it not? They get a membership fee, would they not?

A. They would, if the boy joined the League of Curtis Salesmen.

Q. In all your territory, how many master salesmen did you put in during that period?

A. During the year and a half?

Q. In all that territory, how many master salesmen have you?

A. I believe that I have at the present time about eighteen master salesmen.

Q. They joined the Y. M. C. A., of course, did they not?

A. Yes, sir.

Q. And that occurred during this period of a year and a half, or thereabouts?

A. They have gone in on a period of about two years. There were one or two master salesmen when I took the territory.

Q. Would it be easy in your territory to put in a new magazine?

A. Would it be easy in my territory to put in a new magazine?

Q. For you to go out and handle an unknown magazine?

A. I don't quite understand what you mean?

Q. But there were some small magazines published, and you went out in your territory to appoint agents for that particular magazine and you did not have any circulation—could you readily get agents to take up that proposition?

A. Me, personally?

Q. Yes.

A. I do not know how I could answer that. I would have to know the magazine first.

Q. Well, any magazine.

A. Well, I think it would be possible for a man, if he was on the job, to get an agent.

Q. But it would not be easy?

A. I think it would.

Q. You think it would?

A. If a man is a live man.

Q. You think it would be easier for the "Pictorial Review," even with a large circulation, to do that?

A. I think so.

Q. You do not know about that, of course?

A. I should think it would; yes.

Q. It would not be a very expensive proposition, would it, to put in a new magazine?

A. I should not think so.

Q. You think that you can readily introduce a new magazine at little expense?

A. Yes, sir.

Q. Is that your view?

A. Yes, sir.

Q. I thought that was it. Now, your contract plan has been enforced in your territory, so far as you are able to require people to live up to the provisions of the contract—is not that true?

A. Yes, sir.

Q. In how many instances has a new contract been put in with these same agents you have testified about?

A. I placed a new contract in all but two of the sixty-eight towns.

Q. And you have testified that those are the best men that you could get in these various towns for the sale of a magazine—is not that correct?

A. You mean the sixty-eight?

Q. Yes.

A. I did not appoint all of the original sixty-eight men.

Q. But they are, as a matter of fact, the most capable men that could be found in those towns for that work?

A. I believe they are capable men—yes.

Q. In how many instances did you talk to the district agents that are spoken about in this case about clause 13 of the contract, which I presume you know about?

A. In what way have I talked about it?

Q. Have you called their attention to that contract and to that provision in the contract?

A. I do not believe I have called it to any one agent's particular attention. I believe that they had received notices from the office.

Q. And they may have spoken to you about it?

A. Yes, sir.

Q. Can you name some of the cases where they have spoken to you about it?

A. I believe that Athol, Massachusetts, spoke to me about that clause in the contract.

Q. Athol, Massachusetts?

A. Yes, sir.

Q. Did you tell them what it was for—what were the circumstances surrounding that?

A. I did not discuss the question with them. I told them I would rather have them take the matter up with the Boston office.

Q. Who was your agent there?

A. Well——

Q. Did he handle anything else besides your publications?

A. Not in the wholesale line; no, sir.

Q. He was a retailer, was he?

A. He is a clerk in a drug store.

Q. Now, take the town of Holyoke, for instance. Who is your agent there?

A. Thomas J. Ash.

Q. How long has he been such agent?

A. I am not certain on that, but I believe since some time in July, 1917. I am not positive on that point. I did not appoint Mr. Ash.

Q. Who was your agent before Mr. Ash?

A. At Holyoke?

Q. Yes.

A. I believe a Mr. Trowbridge. I am not positive.

Q. What became of Trowbridge?

A. I do not know. I was not in that part of the territory at that time.

Q. When did you say you took on this man Ash?

A. I think some time during the middle of 1917--I am not positive.

Q. You were here a year and a half, were you not?

A. Yes, but I was in another section of my district at that time. That was handled by Mr. Flanders at that time.

Q. Mr. Flanders had charge of the Ash matter?

A. Yes, sir.

Q. You do not know anything about that?

A. I know nothing about his appointment.

Q. Now, you have made a report here with reference to Holyoke. How large a place is it—about how large?

A. Probably 75,000 population. I am not positive about that. Holyoke I find is 57,000.

Q. You state in here that Ash handles your publications, the Red Star group, and it says nothing in here about the "Pictorial Review" or "Every Week." Do you know whether or not he handles those papers?

A. I am not positive. I have not been there for quite some time.

Q. Did you inquire?

A. At that time I inquired, and I understood he was not handling them.

Q. This was in February of this year that he was not handling them?

A. Not to my knowledge; no, sir.

Q. Your report does not show who handles them, does it?

A. No, sir.

Q. Were you not required to make that report?

A. I believe that at the time I made out that report I informed the dealers—some of them stated they thought they were getting the copies from the Holyoke News Company.

Q. What is that?

A. A sub-branch of the Springfield News Company.

Q. Which is a branch of the American News Company. Now, the Nickerson Supply Company handles the "Springfield Union" and the "Springfield Republican"—they are newspapers, are they not?

A. Yes, sir.

Q. Shea handles the "Springfield Union" and Aguadro handles the Hearst publications—is that correct—is that the correct situation up there?

A. Yes, sir.

Q. Where does Ash really have his principal place of business?

A. Where he handles his Holyoke business?

Q. Yes.

A. In a place on Appleton Street.

Q. He has no place of business in Springfield?

A. No, sir; his home is there. I think he handles his business from his home.

Q. Ash handles the "Pictorial Review"—you have so stated, have you not?

A. Where?

Q. In Holyoke.

A. No, sir; I did not state so. I said the dealers whom I interviewed stated they got their copies from the Holyoke News Company, a sub-branch of the Springfield News Company.

Q. Now, you have testified—and if I am not correct, please correct me—that. there were sixteen of these sixty-nine agents that were in small towns of four or five thousand or under?

A. Yes, sir.

Q. In those towns, are there any other dealers in magazines?

MR. WELCH: He did not say there were only sixteen in towns of four or five thousand or less, Mr. Daly. He said there were only sixteen towns that had only one magazine wholesaler, and those particular sixteen towns were between four and five thousand population.

By MR. DALY:

Q. That only had one magazine wholesaler in those towns, is that correct?

A. Yes, sir.

Q. In those sixteen cases you have them all?

A. We have a wholesaler.

Q. You have a wholesaler in those towns?

A. Yes, sir; we have.

Q. And these wholesalers that you refer to are the ones you have under contract—is not that correct?

A. In these sixteen towns?

Q. Yes.

A. Yes, sir.

Q. Then, you went on to speak of certain small towns, without naming them, that there were two re-

tailers in. Do you mean the small towns of four or five thousand or under?

MR. WELCH: He was referring to the same towns.

THE WITNESS: I was referring to the same sixteen towns. The question was asked, I believe, how many retailers there were.

By MR. DALY:

Q. You said they averaged about two in those towns?

A. Yes, sir.

Q. In what towns were there nearly all boys acting as your agents?

A. In these sixteen——

Q. In small towns you said they were nearly all boys. Why is that?

A. In the small towns with the Curtis publications I have found—small towns with five or six thousand population or under—we get better results with boys than with adults.

Q. Is that the only reason you selected boys?

A. I think it is the main reason I selected boys.

Q. It would not be because of the fact, in the question I asked a while ago, that the remuneration would be small in those towns?

A. I believe that the boys give me better results.

Q. It is on account of service?

A. Yes.

Q. Now, then, you testified in a great many cases where the "Pictorial Review" tried to get your agents——

A. Yes, sir; I did testify to that.

Q. What cases were those?

A. There was Taunton.

Q. That is one.

A. And Worcester.

Q. That is two.

A. And the other towns I mentioned were Lowell —do you want those towns?

Q. Yes; enumerate them.

A. Adams, Massachusetts; Leominster, Massachusetts, and Amherst, Massachusetts.

Q. Then, the "Pictorial" tried in two cases, one in Worcester and one at Taunton——

A. Yes, sir.

Q. And in Worcester they spoke to what gentleman about it?

A. Mr. Boland.

Q. What does Mr. Boland handle?

A. The Curtis publications.

Q. What else?

A. Hearst publications, the Red Star publications, the "Literary Digest" and——

Q. He is a large dealer in magazines?

A. He is a large wholesaler.

Q. He is the largest man there, is he not?

A. No, sir; the Worcester News Company is the largest.

Q. What is that?

A. A branch of the American News Company.

Q. I am leaving out the American News Company —after that, he is the largest dealer in town?

A. Yes, sir.

Q. And he handles newspapers as well?

A. Yes, sir; the "Boston American" and the "New York Telegram."

Q. That was one instance where the "Pictorial Review" tried to get them to handle their paper?

A. Yes, sir.

Q. And you objected, of course, did you not?

A. I referred the matter to the Boston office.

Q. What was the other case—in Taunton?

A. Yes, sir.

Q. What did they do there?

A. They tried to secure our agent to put out the "Pictorial Review" through our agent's employe, Mr. Smith.

Q. Your agent there was Mr. George A. Wood, was he not?

A. Right.

Q. And he handles the "Boston Post," the "Boston Globe," and the "Boston Herald," and also the Curtis group—also the Hearst, Red Star and your magazines, the Curtis magazines?

A. Yes, sir.

Q. He is the chief man there, is he not?

A. Wholesaler, yes, sir.

Q. He is the only man there, is he not—at that time he was the only man there?

A. Yes, sir; of magazines.

Q. Now, you say that they wanted Mr. Wood to handle their magazine—is that correct?

A. Yes, sir.

Q. And that he could not do it?

A. Mr. Wood said he did not want to take it on.

Q. Why?

A. He said to me that he had all he could do, and had plenty of business to look out for and was not anxious to take it.

Q. Do you know that Mr. Smith testified in Boston in this case?

A. I do not believe I was in the room at that time.

Q. Now, the testimony shows in this case—I am not trying to mix you up in any way—but Mr. Smith testified that Mr. Wood went to Boston and saw Mr. Flanders and asked permission and did not get it. That is my recollection of the testimony. So, then, they had to resort to using Mr. Smith, who was the clerk in Mr. Wood's store? Is that correct?

A. He is Mr. Wood's manager.

Q. They were trying to put in their magazine, of course, and to get an agency there—the "Pictorial Review" people were trying to do that, were they not?

A. It looked that way.

Q. What was wrong about that?

A. I did not quite catch the question.

Q. What was wrong about their getting Mr. Smith to handle their magazines, if he could?

MR. MILBURN: I object to that. I do not know that the witness is qualified to state whether it was morally wrong or not, to use a subterfuge?

MR. DALY: It was put in here——

MR. MILBURN: Oh, I withdraw the objection.

By MR. DALY:

Q. There was no other place to go in that town, was there?

A. No; I would not say there was no other place to go.

Q. What would they have to do in order to have a special agent for their paper in that town?

A. There were other places.

Q. Your report says there was no other place.

MR. MILBURN: The report does not say they could not go to other places.

MR. DALY: The report does not show any.

MR. WELCH: Let him answer what a man could do.

THE WITNESS: If a man came into that town?

By MR. DALY:

Q. Yes.

A. There are other retail dealers.

Q. But there were no other wholesalers there?

A. No, sir.

Q. And there would not be any other means of getting his publications wholesaled efficiently in that city?

A. If he went to a retail dealer in the proper way I think he could probably get an agent.

Q. But is not Wood the big business man in the town and puts out a large quantity of magazines?

A. He is the chief wholesaler.

Q. And the other agency would be inferior to Wood's, would it not

A. It would be at first.

Q. It would be absolutely a new proposition, and they would have to build up, would they not?

A. Yes, sir.

Q. Can those propositions be built up without considerable expense, if at all

A. Can they?

Q. Yes.

A. I think so.

Q. In what cases have they been built up at no expense, or at little expense?

A. By getting the proper type of a district agent in a town to act as your agent.

Q. To go into the wholesale business, you mean?

A. Yes, sir.

Q. And that can be readily done, you think?

A. I think if a man went into a town he could get a wholesaler; yes—create a wholesaler.

Q. You want to testify to that, do you?

A. Let me have the question again, please?

(The stenographer repeated the question.)

A. I think he can create a wholesaler, yes, sir.

Q. What is the population of this town?

A. I think about 45,000; I am not positive.

Q. Over in Lowell the testimony is that they had to subsidize a man to handle the Curtis papers. That is a large town. Would not the same procedure have to be followed?

MR. WELCH: The testimony is not that.

MR. DALY: Well, that they did do it.

MR. WELCH: Yes, that they did do it.

By MR. DALY:

Q. You think you could put the "Pictorial" in on a commission basis?

A. Do I think I could?

Q. Yes.

A. I think I could; yes, sir.

Q. Profitably?

A. Yes, sir; I think I could.

Q. Now, that was the two instances that you had trouble with the "Pictorial Review"—is that correct—asking your agents——

A. There was another city that I did not handle, that was handled by Mr. Flanders.

Q. Do you know about that?

A. I do not know the details of it; no, sir.

Q. In how many instances did they go to your exclusive agents; that is, agents that did not want to handle anything but your papers in that community—have you testified about any such instance as that?

A. I think there was only one such instance.

Q. And that was where this woman was involved?

A Yes, sir; that is the only case I know of.

Q. Now, then, the "Every Week" went to whom?

A. Mr. Snow, our agent at Adams.

Q. Do you know when the "Pictorial" people were trying to get these agents—about what time?

A. I could not say, to be positive.

Q. About when?

A. Some time around June of last year—1917. However, I am not positive.

Q. About June, 1917?

A. Yes, sir; I think about that time.

Q. When did the "Every Week" people try to get the agents?

A. Between November—the early part of November, 1917, and the latter part of December, 1917.

Q. And in how many instances did that happen? You have testified about that?

A. In Adams, Mass.; Amherst, Mass.; Leominster, Mass., and Greenfield, Mass.

Q. Now, who is the man at Adams that was approached?

A. Mr. Snow.

Q. He was your agent, was he not?

A. Yes, sir.

Q. What does he sell at wholesale?

A. The Curtis publications; I believe at the present time that is the only thing he is wholesaling.

Q. Well, at the time he was approached?

A. I think even then he was only wholesaling Curtis publications. If I look at the records, for Adams, it will show that, I think.

Q. As a matter of fact, he took on "Every Week," did he not for a while?

A. Not to my knowledge.

Q. You do not know that?

A. No, sir.

Q. Do you know whether or not he made a contract with "Every Week" for the sale of their papers?

A. When he talked with me he showed me some sort of an agreement, but he said he had not taken it on.

Q. Did he say why he had not taken it on?

A. He said he was going to write Mr. Flanders about it and see if what the "Every Week" man said was true.

Q. Who was this man?

A. Mr. Snow believes it was Mr. Searles, Edward L. Searles.

Q. What was it he said to him?

A. In substance that the majority of the district agents throughout New England had taken on "Every Week" agencies.

Q. "Every Week" had not said anything to these men prior to June, 1917?

A. I did not say that "Every Week" went around in June, 1917. I said the "Every Week" activities, in so far as I knew of them, were started between November and December, 1917.

Q. Prior to that time, you know of no instance where they were going around in your territory asking people to take on their publications?

A. It had not come to my knowledge; no, sir.

Q. Who else is there in Adams—any other wholesalers or dealers?

A. Magazine wholesalers?

Q. Yes.

A. There is a young man handling the "Every Week" agency there now, I believe.

Q. At the time we are talking about, was there any other wholesaler in that town?

A. Not to my knowledge, unless it is listed; I do not recall it.

Q. I have not got that report.

MR. MILBURN: What is that—for Adams?

MR. DALY: Yes.

By MR. DALY:

Q. Now, in Framingham, who was your agent there?

A. At the present time Bates and Holdsworth Company.

Q. How long have they been your agents—is that South Framingham?

A. That used to be South Framingham; it is now called Framingham.

Q. Now, Bates and Holdsworth, according to your reports, dated March 4, 1918, handle the "Boston Globe," "Boston Herald" "Boston Post," and now they handle your papers—is that correct?

A. They are handling our papers; yes, sir.

Q. Your report shows that J. F. Ever & Company were your agents when your report was made?

A. Yes, sir.

Q. They handle the Curtis group, the Red Star group and the Hearst group?

A. That is correct.

Q. What became of Eber?

A. Mr. Eber died a year ago.

Q. Bates and Holdsworth took over the business —is that correct?

A. Yes, sir.

Q. So, they are the only wholesalers then in South Framingham—is that true?

A. As far as I know, yes, sir.

Q. Do you know whether or not they took on the "Pictorial Review" or handled the "Pictorial Review"?

A. I think they did.

Q. Do they now?

A. I do not believe they do.

Q. Why?

A. I believe they wrote the "Pictorial Review" cancelling their agreement or stating they did not want them any more from a wholesale standpoint.

Q. Did they give the reasons why? You are talking about a letter, of course.

A. I do not know. I did not see the letter.

Q. You do not know whether the Curtis Company objected?

A. In what way?

Q. On account of the contract they had with them. You know that, do you not?

A. I do not know just what Mr. Holdsworth did write.

Q. I am not speaking about writing now. You

know, as a matter of fact, that they had been notified by the Curtis Company——

A. I believe Mr. Holdsworth had a talk with Mr. Flanders.

Q. About this—that is the situation, is it not?

A. I am not sure what he talked about. I know I visited the town afterwards.

Q. You never talked with Holdsworth about it, or with Bates?

A. About——

Q. About the "Pictorial Review" matter?

A. I have talked about the "Pictorial Review" matter, yes.

Q. What did you talk about?

A. In my visits through the town, getting my pink and white sheets' data, I found that Bates and Holdsworth were putting out the "Pictorial Review." I asked Mr. Holdsworth if he was putting it out and he said yes.

Q. What then did you say?

A. I said, "Have you read through your contract"?

Q. That is the very information I want.

A. He said, "Yes." I said, "Well, some day when you are in Boston and have a chance, go in and talk with Mr. Flanders."

Q. When was that that you talked with him?

A. I should say between three and four weeks ago. I am not positive.

Q. When did they cease handling it?

A. When did they cease?

Q. Yes.

A. I believe about three weeks ago—three weeks ago, I believe.

Q. You were supervising the agents and you do not know why they were cut off or why they are not handling it any more?

A. I believe Mr. Holdsworth had a talk with Mr. Flanders about it.

Q. You talked about the contract—is it not because of this contract?

A. Have I talked about the contract?

Q. Is that the reason—they were under contract with the Curtis Company?

A. I believe they were violating that clause.

Q. The reason they are not handling it is because they were violating the contract?

A. It may have been that. I have not seen Mr. Holdsworth for over five minutes since then.

Q. And you have not seen Mr. Flanders either?

A. Yes, sir. I have seen Mr. Flanders.

Q. What did he say?

A. He said Bates and Holdsworth were our agents in Framingham.

Q. Did he say anything about Holdsworth——

A. No, sir.

Q. Your memory is faulty on that. I wish you would refresh your memory on that, Mr. Lynne.

Q. Did I ask you about how large a town this South Framingham is?

A. About 22,000, I think.

Q. This man does not handle the Crowell line any more, does he—Holdsworth and Bates?

A. I don't think he does.

Q. Did you talk to them?

A. He said he was going to write to both Crowell and "Pictorial."

Q. And notify them?

A. At least he said he was going to notify them.

Q. At the time of your conversation he told you that?

A. Mr. Holdsworth is the man that handles the magazine end of the business. He said he was going to write to the "Pictorial Review" and to the other two

people. He said first he was going to have a talk with Mr. Flanders about it.

Q. That was at the time you called his attention to the contract, was it not?

A. That is the time I found him putting out "Pictorial Review," violating his contract.

Q. Did I ask you anything about Worcester?

A. Not that I know of.

Q. You said, though, that Boland was your agent there, did you not?

A. Yes, sir.

Q. Now, on your report here, he handles the "Boston American," "New York Sunday Evening Telegram." What else does he handle, do you know?

A. In newspapers or magazines?

Q. Magazines and newspapers. He handles magazines, doesn't he?

A. Yes; he handles the Curtis magazines.

Q. This report must be mixed up. I don't see that.

A. I think you will find two white sheets and then a pink one.

Q. He handles your magazines, and Hearst's, and the Red Star group, is that correct?

A. Yes, sir.

Q. Now, on your report here, you have Albert Bracon, Edward Franks and Robert Dilby. They are your sub-agents?

A. Sub-district agents.

Q. They do not handle in a wholesale way, do they?

A. Yes, sir.

Q. What do they handle?

A. Curtis publications.

Q. Your magazines?

A. Yes; our magazines.

Q. And through boys, do they not?

A. Through boys only.

Q. Now, then, the Worcester News Company handles the "Metropoltan Magazine," "Popular" and "McClure's," and it is the branch, of course, of the American News Company; that is correct, is it not?

A. Yes.

Q. Then Peter Redig handles the "Boston American" and the "Worcester Telegram" is all.

A. I did not get that name.

Q. Peter Redig.

A. Oh, Bedig.

Q. Bedig, is it?

A. Yes.

Q. Holdsworth—H. Jones handles the "Boston American" and the "Worcester Telegram"?

A. That is right.

Q. The only one there that handles magazines in a wholesale way is Mr. Boland?

A. Outside of the Worcester News Company.

Q. Did you testify that the Pictorial Review Company went to see Boland?

A. I did.

Q. That is one of the instances we talked about here in this case, is it not?

A. It is.

Q. And Mr. Boland refused to take it on, did he or not?

A. I don't remember at present, because I was not in that part of the country at that time, when he was first approached.

Q. When was that, do you know, about? When it was he was first approached?

A. I just don't remember.

Q. Did I ask you about Boland in your testimony? Did I ask you this before? I am rather mixed up on the men I have asked about.

MR. MILBURN: I don't think so. I did.

By Mr. Daly:

Q. And he handled "Pictorial Reviews," did he not?

A. I think he did for a while.

Q. Now, in your report from the city of Lynn, you show that the North Shore News Company handles the "Boston Globe," the "Boston American" and the "Lynn Item"?

A. That is right.

Q. And they are your agents? They also handle magazines, don't they?

A. Yes, sir.

Q. Is the North Shore News Company, R. S. Bower, treasurer——

A. Bower is treasurer of the North Shore News Company.

Q. They handle, then, your magazines, Hearst's and the Red Star, do they not?

A. They do.

Q. How long have they handled your magazines?

A. How long have they handled ours?

Q. Yes.

A. A great many years.

Q. And they still handle them?

A. And they still handle them.

Q. As matter of fact, your reports don't show it, but they do handle the "Pictorial Review," don't they?

A. I believe they do.

Q. You know that, don't you?

A. Yes.

Q. Have you talked with Mr. Bower about it?

A. No, sir.

Q. When have you seen him last?

A. Well, I saw Mr. Bower for a few minutes, about a month and a half ago.

Q. When did you see him before that?

A. To talk with him personally, I haven't seen him since the hearing at Boston, in December, before the Federal Trade Commission. I did not see him then even to talk to him—just say how do you do to. I have not seen Mr. Boland to talk to for about a year.

Q. This report shows that there is no other wholesaler in the city of Lynn, except possibly the New England News Company?

A. The New England News Company.

Q. Which is a branch of the American News Company, and that Boland, therefore, handles all of the rest of the business in this line?

A. That is right.

Q. He handled the "Pictorial Review" for a good while?

A. He has a pattern agency, too.

Q. He handled the "Review" for a good while? You have already said that?

A. Yes.

Q. He is under contract with you?

A. Yes.

Q. Why haven't you taken his contract away from him?

A. I have not had a chance to get in there.

Q. Oh, that is the reason?

A. That is it exactly.

Q. That is a good, large city, is it not?

A. You bet it is.

Q. And you are not very anxious to take it away from him, really, are you?

A. I think I can place the contract.

Q. You think you could?

A. Yes; I am positive.

Q. But you are not anxious to do it, are you?

A. Yes; I think I would like to go into Lynn and place a new agency.

Q. Well, you have been a long while making your mind up about it, have you not?

A. Well, I have got sixty-nine towns. I have got a very large territory.

Q. He handles a large number of your publications, don't he?

A. Yes.

Q. How many does he handle?

A. Approximately 1600 "Posts" a week, I believe. I may be a little wrong.

Q. How many "Journals"?

A. Very near 2,000, if I am not mistaken.

Q. How many "Country Gentleman"?

A. I should say about 400. I may be wrong.

Q. You have never tried to put another agent in there, have you?

A. I have not been into Lynn; no, sir.

Q. Do you know whether Mr. Flanders had?

A. I am sure I do not know, Mr. Daly.

Q. How long has Alvin Sloan been your agent in Somerville?

A. I believe since November, 1917. I am not positive on that.

Q. Who was your agent before that?

A. It has slipped my mind, Mr. Daly. I just cannot recall who was the agent.

Q. Were not Shearer Brothers handling it prior to that time?

A. I believe that came under greater Boston territory. Mr. Flanders handled that.

Q. As a matter of fact they ceased handling it and then you put in this other agent?

A. I believe that, if you say it is true, that they handled it. I placed Sloan in Somerville.

Q. You put Sloan in there?

A. Yes, sir; signed him up.

Q. And did you not know at the time you signed him up all the facts about the matter?

A. I know that the town was what we call open, ready for new agents, so I put him in.

Q. Now, in Fall River, Mr. Martin was your agent until recently, was he not?

A. Until last November, I believe.

Q. He handled the "Boston Globe," "Boston Herald," "Boston American" and the Hearst group, Red Star and "Pictorial Review." That is correct, is it not. That is what your report states?

A. I believe that he did not handle the "Boston Herald," in November, if that is what you have reference to, at the time that report was made out.

Q. He does now?

A. Yes, sir; he does now.

Q. Now, then, he stopped handling your magazines, did he not?

A. Yes; he did.

Q. When?

A. About the fourteenth day of December, 1917.

Q. Now, why did he stop handling them?

A. I believe general dissatisfaction at that time.

Q. What was the dissatisfaction, if you know. What was it?

A. He was not in harmony.

Q. He was handling the "Pictorial Review," was he not?

A. I believe he was.

Q. That was one of the reasons, if not the main reason?

A. The reason given, I believe, was given in a letter by Mr. Flanders. I did not see the reason.

Q. You don't know?

A. I know he received a notification.

Q. You know he quit?

A. I know he quit. He was given thirty days' notice.

Q. He was handling the "Pictorial Review"?

A. I believe he was at that time.

Q. Flanders talked to you about it, did he not?

A. He and I went to Fall River together.

Q. And saw Mr. Martin?

A. Yes; we saw Mr. Martin.

Q. What did you talk about?

A. Mr. Martin was not in harmony with the way we conducted our business. Mr. Flanders told him he did not want anybody that was not in harmony with us.

Q. What do you mean by "harmony"? What did you and Flanders talk about? Do you mean by that that Mr. Martin was unfriendly to your paper, or what? What did you talk about to him?

A. I am trying to get my memory on that, Mr. Daly. I want to give you an absolutely fair reason on it.

Q. Go ahead.

A. It happened about the twelfth or fifteenth of December. It was on the morning of the fourteenth of December. We had an interview with Mr. Martin. Mr. Flanders did the talking. I was a silent listener. Mr. Flanders, I believe took up with Martin that he was not in harmony with the policies of our house, and Mr. Martin did not say very much in answer to it, and he said, "We have arranged for a new agency."

Q. Who said that?

A. Mr. Flanders said that. Of course, Mr. Martin had his thirty days' notice, and there was very little said. It lasted, I do not believe, more than five minutes.

Q. Well, was there any conversation about "Pictorial Review," or not?

A. I truthfully could not say there was.

Q. You don't remember that?

A. I don't remember that.

Q. Was there any conversation about "Every Week"?

A. No, sir; I don't remember on that. As I remember it, frankly it was really a heart-to-heart talk on the policies of our house, and Mr. Martin did not seem to agree on it.

Q. Did you mention any particular policies? Or did he just say that your policies did not suit; and you said all right, we will get another agent?

A. No; Mr. Flanders said that he thought that Mr. Martin was not in harmony with the way we conducted our business, and for the mutual interest of everybody we had better dissolve it.

Q. What do you refer to when you say that? I am not clear on it. There must have been something more than that in that conversation?

A. Well, Mr. Martin——

Q. What did Mr. Martin say about policies?

A. Well, it is a sort of a long, long story.

Q. Well, tell it.

A. If you want me to give it, but I—it sort of led up to the policies of the house.

Q. Yes; I want it.

A. Mr. Martin has been, in years past, president of what is known as the Suburban News Dealers Organization, and the suburban news dealers, I believe, from what knowledge I have gathered in my territory, have been opposed to our contract system, and our bond, and Mr. Martin, I believe, at various times has mentioned that.

Q. He was a sort of a leader in that, was he?

A. I believe he was, yes.

Q. And that was the thing—that was one of the things that wasn't in harmony with the policies of your house?

A. I believe that is Mr. Martin's feeling. Of

course, I don't know. That is what I gathered from the talk.

Q. That is what the story was, is it not?

A. No; there was not anything at length like that in the talk of Mr. Flanders.

Q. That is your understanding of the transaction, is it not?

A. But I believe that Mr. Martin was not in harmony with our policies.

Q. He wanted to handle all magazines, did he not, as a matter of fact?

A. Why, I don't know.

Q. Notwithstanding the fact——

A. He never told me; no. I don't know.

Q. You understood that was it. You have stated that, have you not?

A. I did not get that.

Q. You understood that that was the unharmonious thing that he was doing, that he wanted to handle "Pictorial Review," and all of the other magazines, did he not?

A. I don't know. I would not want to say that, but what I had reference to was he did not believe in our contract and bonds; that is the only thing.

Q. He did not like that contract; is not that it?

A. That is one of the things.

Q. Clause 13 of the contract was really the thing that he objected to, was it not?

A. He never brought that to my attention. He said that he signed the contract, but he never brougnt it to my attention personally, in my visits.

Q. Now, how large a place is Fall River?

A. About 120,000 population, I believe.

Q. Now, this report shows that James C. Duckett handles the "Boston Post"; that M. Joseph Megowski handles your papers now, and that Martin handles the rest that are handled there; that is correct?

A. That is correct.

Q. In getting Megowski to represent you what guarantees did you make, if any?

A. What guarantees?

Q. Yes; did you make the arrangement with him?

A. I talked with Mr. Megowski in Mr. Flanders' presence.

Q. You made the arrangements; you know about them. Just what arrangements did you make with him?

MR. MILBURN: Confine yourself to what arrangement you made.

THE WITNESS: Commission basis only.

By MR. DALY:

Q. Arrangements about getting your papers?

A. Yes, sir; taking over our agency.

Q. What were the arrangements? It was your contract he signed at that time?

A. Yes, sir; he did.

Q. Now, outside of the contract did you give him anything else besides his commission? Did you offer him anything else?

A. No, sir; I did not.

Q. No guarantee of the company?

A. Did I?

Q. Your company, I am speaking about.

A. I don't know, I'm sure. I do not know whether Mr. Flanders can answer that or not.

Q. Through you it was not made?

A. Absolutely not through me. The only thing I did was to get the contract signed up. I was there and had the contract signed up.

Q. That was the new contract?

A. Yes, sir; the new contract.

Q. Do you know whether or not he lost any of the Boston papers since he took your agency?

A. I believe the week he took our agency he lost the "Boston Herald."

Q. Did you not make some other arrangement with him then? Did he call your attention to it?

A. Did I?

Q. Or your company?

A. No, sir; I did not.

Q. Do you know whether your company did or not?

A. I believe there was some arrangement made by Mr. Flanders, later on, on a sort of a sliding scale bonus on increased business, but what it is, Mr. Daly, I don't know.

Q. You should have just told me that on the start. I don't want to argue about it. That is all I want to know. You think Mr. Flanders did make some arrangement?

A. Yes; but what it is I really don't know.

Q. Now, in New Bedford, your report shows that Felix Seguin handles the "Boston American," and that E. W. Pierce is your agent in that city?

A. Yes, sir.

Q. When did Seguin stop handling your magazine, if he did? As a matter of fact, he was your agent, was he not

A. Yes, sir.

Q. When did he stop?

A. I think the first issue in February—February 13th.

Q. Of this year?

A. I believe 1918, yes.

Q. Then you took on Mr. Pierce; is that correct?

A. That is right.

Q. Who is Mr. Pierce?

A. Mr. Pierce is a young man living on Chauncey Street.

Q. Why did you change from Seguin to Pierce?

A. I believe Mr. Seguin was late making his remittances, I believe, at the time.

Q. Was that the only reason?

A. I believe it was one of the contributing reasons.

Q. Well, you believe it was one, but tell me all of the reasons, if you know. You took him over, did you not; you made the arrangement?

A. I made the arrangement with the new man. He received his notification from the Boston office.

Q. He had been your agent for some time?

A. Yes.

Q. And what did he handle?

A. He handled the Hearst magazines.

Q. The Red Star and "Pictorial Review"?

A. I believe he did, yes.

Q. And yet you cut him off. Why did you do that?

A. I did not cut him off. He received a notification from the Boston office.

Q. He received a notification that his contract was canceled?

A. And I received instructions to go into New Bedford and appoint a new agent, which I did.

Q. Do you know why he was cut off?

A. Do I?

Q. Yes.

A. I believe for violating a clause in the contract, yes.

Q. He handled "Pictorial Review," did he not?

A. He did, yes.

Q. Do you know whether he handles it now or not?

A. I am not sure. I do not know.

Q. Now, in making the investigation in New Bedford and in these other cities that we have been talking about, that you have testified about for Mr. Mil-

here, you say on your report that one of the sources of information is from personal investigation among the newsdealers in the city?

A. That is right.

Q. Do you mean the retail newsdealers?

A. Retail newsdealers.

Q. How many did you see in that city?

A. Oh, I probably visited——

Q. How many do you think there are in that city?

A. How many dealers in all, in New Bedford?

Q. Yes.

A. I would not want to say definitely. But I should say there were about between forty and sixty.

Q. How many did you call on?

A. I called on possibly fifteen or twenty.

Q. And in Brookline, how many would there be?

A. In Brookline, Massachusetts, dealers?

Q. Well, in that city you did not see any dealers, did you?

A. That is my home town.

Q. In Woburn, you did not see any dealers, did you?

A. I saw one dealer there.

Q. In Fall River, you say you interviewed newsdealers. How many did you interview there?

A. Possibly ten or twelve.

Q. How many do you think there are? How many are there, if you know?

A. I could not say offhand. I should say there were——

Q. Forty or fifty?

A. I should say so, yes.

Q. New Bedford is how large a place?

A. About 25,000—possibly 100,000.

Q. Do you know whether or not there was any instruction given to this man to take on your agency—this new man?

1791

A. Absolutely, no, sir; not to my knowledge.

Q. You don't know whether Mr. Flanders made any arrangement?

A. No, sir.

Q. You personally made no arrangement?

A. Absolutely not.

Q. You have heard of none, have you?

A. No, sir; I have heard nothing about it.

Q. Now, this is a very efficient plan of distributing magazines of yours, is it not?

A. I believe it is.

Q. What plan is better, if any?

A. That I do not know, Mr. Daly. I do not know any that is superior to it.

Q. You do not know any superior?

A. No, sir.

Q. In fact, it is a much better plan than the American News Company's plan, is it not?

MR. MILBURN: I object to that as calling merely for his conclusion.

MR. DALY: He is an expert in business.

MR. MILBURN: I object to it and ask for a ruling.

By MR. DALY:

Q. You have testified, or somebody has testified here, about the intensive plan. The other gentleman said that he took off somebody because the work was not intensive enough. Now, as a matter of fact, your plan is what you might term a very intensive plan. That is, you expect to reach every customer, don't you, and sell other magazines. That is your great plan?

A. I tried to sell as many as possible.

Q. Now, you know how the American News Company circulates, don't you?

A. I do.

Q. You can reach the customers much more read-

ily than the American News Company with your plan, can you not?

A. Not through distribution, except through the boys.

Q. Well, say the boys, you reach the retailers to much better advantage than the American News Company, don't you?

A. We do through the boys; yes, sir.

Q. Well, go into these towns where you have nothing but boys now. We will first talk about that. Through those boys you are in touch with every person in the city, are you not?

A. We try to be.

Q. Now, where the American News Company circulates, in such communities as I have described—that is, these small communities where they have no small branches or no sub-agencies, they cannot circulate near as well as you can, can they?

MR. WELCH: Through boys?

MR. DALY: Through boys.

By MR. DALY:

Q. Can they reach the retailer with the same care——

MR. MILBURN: I object to the question in that form, calling merely for this conclusion.

By MR. DALY:

Q. You know how the News Company gets their magazines out to the retailers, don't you?

A. I think I do, yes.

Q. How is that done?

A. In large cities where they have a branch of the American News Company it is put out through an auto or wagon delivery to each individual retailer; in outlying sections in small towns it is sent through mail or freight to the individual retailer.

Q. Now, do they reach all of the retailers in that way?

A. I believe they do.

Q. You think they do?

A. Those who want their products.

Q. The retailer himself goes and gets the stuff, don't he, oftentimes?

A. He goes to the freight house, if it comes by freight, or he goes to the post office if it comes by mail.

Q. So, then, you want to testify—the effect of your testimony then would be — I will put it right square up to you—that you think you could sell as many magazines through the American News Company as you could through your plan?

A. Do I think personally that the Curtis Company——

Q. Do you know whether or not you could sell as many "Posts" by doing business through the American News Company as you could through your system?

A. No, sir; I do not.

MR. DALY: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. You know a retailer in your district who communicates with the American News Company could have no magazines sent to him?

A. Yes, sir.

Q. He runs the ordinary risk of any citizen in getting his mail and freight; is that right?

A. Yes, sir.

Q. When you referred to our system, meaning the Curtis system, do you mean its entire system of distribution through boys and dealers?

A. Through boys and dealers.

Q. In answer to Mr. Daly—Mr. Daly asked you whether it was easy to get agents for a new magazine or some other magazine. Now, isn't it a fact that if

you can show an agent where he can make a profit you can get him to handle your magazine?

A. Yes, sir.

Q. That is true with one magazine as well as another?

A. Yes, sir.

Q. If you cannot show him a profit, you cannot get him?

A. No, sir.

Q. If you can show him a profit, you can get him?

A. Yes, sir.

Q. You testified with reference to Mr. Ash. Where does he live?

A. He is in Springfield.

Q. Do you know whether he is in business in Springfield?

A. He does conduct business in Springfield.

Q. He wholesales in Springfield?

A. He does.

Q. He also does business in Holyoke?

A. Yes, sir.

Q. Is he our agent in Holyoke?

A. Yes.

Q. I understand that he handles the "Pictorial" in Springfield?

A. Yes.

Q. Those are separate businesses?

A. Yes.

Q. I asked you some questions with reference to your knowledge of approaches made to the Curtis district agents by the Crowell and "Pictorial," and I asked you instances, or did you not understand me to ask you instances where they had endeavored to get our agents to handle their papers, through subterfuge, or by some statements of the facts you did not believe to be true? Did you limit your answer to that?

A. Yes, sir.

Q. You know that there are other instances where agents have been asked to handle "Pictorial"?

A. Yes, sir.

Q. You have gone into a good many towns to establish wholesale agencies?

A. Yes, sir; I have.

Q. And established them in towns where wholesalers had never existed before?

A. Yes, sir.

Q. And you stated in these sixteen towns, the men you established there started the wholesale business in that town; is that right?

A. Yes.

Q. Have you found, where you could offer an attractive proposition, any difficulty in getting a man to act as wholesaler for your papers?

A. I have never had any difficulty, no, sir.

Q. Mr. Daly asked you if you got the best man you could in the town. You answered yes. Is that correct?

A. Yes, sir.

Q. What do you mean by the best man?

A. I try to get the best man possible, a man that is interested in boys, if it is a small town or a large town, and I try to get a man of intelligence if it is possible and a man that is interested in boys—a man who will give a little time and attention to our work.

Q. That man may not personally be in the paper business at all.

A. Oh, no; many of them are not in the paper business.

Q. You referred to a Mr. Pierce. What was he doing, do you remember?

A. Mr. Pierce has been a pawnbroker.

Q. And you referred to a Mr. Sloan. What was he?

A. Mr. Sloan is a young man who is going to Tufts College now—I believe Tufts Medical College.

Q. When you spoke of them as the best men, you meant the best men for your general purposes; is that correct?

A. Yes; I can mention another man, Mr. Knight, of Fitchburg. He is quite a writer—college man—never been in newspaper or magazine——

Q. Your best man is not in fact the best magazine man. I didn't want any misunderstanding about that. Do you know in a general way of your own information that the Curtis Company requires its agents to abide by its contract?

A. Yes, sir.

Q. And it holds itself ready and willing to change its agents when it wants to?

A. Yes, sir.

Q. When you spoke of not acting in harmony, you mean a man has got to live up to the contract to be in harmony?

A. Absolutely.

Q. You haven't got any doubt in your mind, where a man takes up a magazine which he is refused permission to handle by Curtis, he is apt to lose his agency?

A. You bet he is.

Q. And has lost them in the past?

A. Yes.

Q. You also stated in answer to Mr. Daly, where he asked about the possibility of "Pictorial" getting another retailer, that that was a possibility; is that correct?

A. Yes, sir.

Q. You have been successful in getting retailers who never wholesaled before, have you not?

A. Yes, indeed, I have.

Q. Some of our agents are earnest and can handle the boy business well, can they not?

A. Yes, they do very well.

Q. Some not as well?

A. Some not as well.

Q. Do you remember what interest Mr. Martin took in the boy business, for instance?

A. Mr. Martin was not interested in the boy end of the game.

Q. And you also know that he came in conflict with the Curtis Company on the "Pictorial" matter?

A. Yes, sir; I do.

Q. And that his agency was discontinued?

A. Yes, sir.

Q. In handling your district, have you acted under the general instruction and direction of Mr. Flanders?

A. I have.

Q. And questions of policy or questions of importance, as they have come up, have been referred by you to Mr. Flanders; isn't that correct?

A. Yes, sir.

Q. Beginning with about April, of last year, was there not a period of time when there were no changes made in the district?

A. Yes, sir.

Q. And you acted under instructions not to take up these matters with the agents, did you?

A. Yes, sir.

Q. And then recently, for some months, you have been, as I understand it, primarily engaged in getting up these reports?

A. That is it.

Q. And there are men in your district who are district agents whom you know to be handling "Pictorial" now and have not been changed; is that correct?

A. I believe there are two instances—I believe one or two instances.

Q. With reference to these instances, has it made any difference to you what character of the town or what the circulation was?

A. It did not make any particle of difference.

Q. With reference to their change?

A. It did not make a particle of difference.

Q. You understand they will be changed?

A. They will be changed; yes, sir.

Q. And that the fact that they have not been changed, is not due to the fact, is it, that you cannot get another man there?

A. No, sir; it is not.

Q. Have you any idea, taking all of these sixty-eight agents, how many of them, at any time within the last year, were offered an opportunity to take either "Pictorial" or the Crowell publications?

A. I believe——

MR. DALY: He testified about that.

MR. MILBURN: I was trying to clear that up in the record, because I asked for specific men, to whom specific advances had been made to handle, through one of their employees or a relative; but I say just generally.

THE WITNESS: I believe that most of them have been offered the agencies.

MR. MILBURN: That is all.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. When?

A. Some time within a year.

Q. Now, I want to ask you one or two more questions, that is all. How recently have you established an agency with the person who has been handling other magazines, or handling newspapers, or both?

A. How recently have I established an agency with a person who has magazines and newspapers?

Q. Yes.

A. I don't believe I have for three or four months, possibly longer.

Q. You have done that, have you not, in your experience for four years?

A. Oh, yes.

Q. A number of times?

A. Yes; in years past.

Q. Now, would such dealers in magazines and newspapers have to get permission from any other publisher, before they could take on your paper?

A. That I don't know, sir.

Q. You don't know that?

A. I don't know that.

Q. You never had any trouble about that, did you?

A. No; it has never been called to my attention.

Q. Did you find out whether they had to get permission or not? Did you ever ask them whether they had to get permission?

A. I never asked them personally.

Q. As a matter of fact, they don't have to get permission, do they?

A. In a general way; yes, sir.

Q. In a particular way, you know it, do you not?

A. No, I do not.

Q. In these new agencies that you establish, they agree in their contract to not handle any other magazines, except Curtis, without permission?

A. Without first obtaining the permission of the Curtis Company.

Q. You have never seen a contract of that kind, except yours, have you, put out by any other publisher?

A. I don't think I have, no.

EXAMINER MOORE: Is that all?

MR. DALY: That is all.

MR. MILBURN: That is all.

EXAMINER MOORE: We will take a recess until Monday, at ten-thirty.

(Whereupon, at 2.15 o'clock P. M., the hearing was adjourned until Monday, April 22, 1918, at 10.30 A. M.)